

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1306**  
**93RD GENERAL ASSEMBLY**

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Reported from the Committee on Pensions, Veterans' Affairs and General Laws, April 12, 2006, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

3825S.05C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 104.010, 104.335, 104.342, 104.344, 104.352, 104.354, 104.378, 104.380, 104.395, 104.410, 104.450, 104.490, 104.601, 104.620, 104.621, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1030, 104.1042, 104.1060, 104.1072, 104.1090, 104.1200, 104.1205, 104.1215, and 476.682, RSMo, and to enact in lieu thereof thirty-three new sections relating to state employee retirement, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 104.010, 104.335, 104.342, 104.344, 104.352, 104.354, 104.378, 104.380, 104.395, 104.410, 104.450, 104.490, 104.601, 104.620, 104.621, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1030, 104.1042, 104.1060, 104.1072, 104.1090, 104.1200, 104.1205, 104.1215, and 476.682, RSMo, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 104.010, 104.335, 104.342, 104.344, 104.352, 104.354, 104.378, 104.380, 104.395, 104.410, 104.450, 104.490, 104.601, 104.603, 104.606, 104.607, 104.620, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1030, 104.1042, 104.1060, 104.1072, 104.1090, 104.1200, 104.1205, 104.1215, and 476.682, to read as follows:

104.010. 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

6 member's individual account and interest allowed thereon;

7 (2) "Active armed warfare", any declared war, or the Korean or  
8 Vietnamese Conflict;

9 (3) "Actuarial equivalent", a benefit which, when computed upon the basis  
10 of actuarial tables and interest, is equal in value to a certain amount or other  
11 benefit;

12 (4) "Actuarial tables", the actuarial tables approved and in use by a board  
13 at any given time;

14 (5) "Actuary", the actuary who is a member of the American Academy of  
15 Actuaries or who is an enrolled actuary under the Employee Retirement Income  
16 Security Act of 1974 and who is employed by a board at any given time;

17 (6) "Annuity", annual payments, made in equal monthly installments, to  
18 a retired member from funds provided for in, or authorized by, this chapter;

19 (7) "Average compensation", the average compensation of a member for  
20 the thirty-six consecutive months of service prior to retirement when the  
21 member's compensation was greatest; or if the member is on workers'  
22 compensation leave of absence or a medical leave of absence due to an employee  
23 illness, the amount of compensation the member would have received may be  
24 used, as reported and verified by the employing department; or if the member had  
25 less than thirty-six months of service, the average annual compensation paid to  
26 the member during the period up to thirty-six months for which the member  
27 received creditable service when the member's compensation was the greatest; or  
28 if the member is on military leave, the amount of compensation the member  
29 would have received may be used as reported and verified by the employing  
30 department or, if such amount is not determinable, the amount of the employee's  
31 average rate of compensation during the twelve-month period immediately  
32 preceding such period of leave, or if shorter, the period of employment  
33 immediately preceding such period of leave. **The board of each system may**  
34 **promulgate rules for purposes of calculating average compensation and**  
35 **other retirement provisions to accommodate for any state payroll**  
36 **system in which compensation is received on a monthly, semimonthly,**  
37 **biweekly, or other basis;**

38 (8) "Beneficiary", any person entitled to or nominated by a member or  
39 retiree who may be legally entitled to receive benefits pursuant to this chapter;

40 (9) "Biennial assembly", the completion of no less than two years of  
41 creditable service or creditable prior service by a member of the general assembly;

42 (10) "Board of trustees", "board", or "trustees", a board of trustees as  
43 established for the applicable system pursuant to this chapter;

44 (11) "Chapter", sections 104.010 to 104.800;

45 (12) "Compensation":

46 (a) All salary and wages payable out of any state, federal, trust, or other  
47 funds to an employee for personal services performed for a department; but  
48 including only amounts for which contributions have been made in accordance  
49 with section 104.436, or section 104.070, whichever is applicable, and excluding  
50 any nonrecurring single sum payments or amounts paid after the member's  
51 termination of employment unless such amounts paid after such termination are  
52 a final installment of salary or wages at the same rate as in effect immediately  
53 prior to termination of employment in accordance with a state payroll system  
54 adopted on or after January 1, 2000, or any other one-time payments made as a  
55 result of such payroll system;

56 (b) All salary and wages which would have been payable out of any state,  
57 federal, trust or other funds to an employee on workers' compensation leave of  
58 absence during the period the employee is receiving a weekly workers'  
59 compensation benefit, as reported and verified by the employing department;

60 (c) Effective December 31, 1995, compensation in excess of the limitations  
61 set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The  
62 limitation on compensation for eligible employees shall not be less than the  
63 amount which was allowed to be taken into account under the system as in effect  
64 on July 1, 1993. For this purpose, an "eligible employee" is an individual who  
65 was a member of the system before the first plan year beginning after December  
66 31, 1995;

67 (13) "Consumer price index", the Consumer Price Index for All Urban  
68 Consumers for the United States, or its successor index, as approved by a board,  
69 as such index is defined and officially reported by the United States Department  
70 of Labor, or its successor agency;

71 (14) "Creditable prior service", the service of an employee which was  
72 either rendered prior to the establishment of a system, or prior to the date the  
73 employee last became a member of a system, and which is recognized in  
74 determining the member's eligibility and for the amount of the member's benefits  
75 under a system;

76 (15) "Creditable service", the sum of membership service and creditable  
77 prior service, to the extent such service is standing to a member's credit as

78 provided in this chapter; except that in no case shall more than one day of  
79 creditable service or creditable prior service be credited any member for any one  
80 calendar day of eligible service credit as provided by law;

81 (16) "Deferred normal annuity", the annuity payable to any former  
82 employee who terminated employment as an employee or otherwise withdrew  
83 from service with a vested right to a normal annuity, payable at a future date;

84 (17) "Department", any department or agency of the executive, legislative  
85 or judicial branch of the state of Missouri receiving state appropriations,  
86 including allocated funds from the federal government but not including any body  
87 corporate or politic unless its employees are eligible for retirement coverage from  
88 a system pursuant to this chapter as otherwise provided by law;

89 (18) "Disability benefits", benefits paid to any employee while totally  
90 disabled as provided in this chapter;

91 (19) "Early retirement age", a member's attainment of fifty-five years of  
92 age and the completion of ten or more years of creditable service, except for  
93 uniformed members of the water patrol;

94 (20) "Employee":

95 (a) Any elective or appointive officer or person employed by the state who  
96 is employed, promoted or transferred by a department into a new or existing  
97 position and earns a salary or wage in a position normally requiring the  
98 performance by the person of duties during not less than one thousand **forty**  
99 hours per year, including each member of the general assembly but not including  
100 any patient or inmate of any state, charitable, penal or correctional  
101 institution. Beginning September 1, 2001, the term "year" as used in this  
102 subdivision shall mean the twelve-month period beginning on the first day of  
103 employment. However, persons who are members of the public school retirement  
104 system and who are employed by a state agency other than an institution of  
105 higher learning shall be deemed employees for purposes of participating in all  
106 insurance programs administered by a board established pursuant to section  
107 104.450. This definition shall not exclude any employee as defined in this  
108 subdivision who is covered only under the federal Old Age and Survivors'  
109 Insurance Act, as amended. As used in this chapter, the term "employee" shall  
110 include:

111 a. Persons who are currently receiving annuities or other retirement  
112 benefits from some other retirement or benefit fund, so long as they are not  
113 simultaneously accumulating creditable service in another retirement or benefit

114 system which will be used to determine eligibility for or the amount of a future  
115 retirement benefit;

116 b. Persons who have elected to become or who have been made members  
117 of a system pursuant to section 104.342;

118 (b) Any person who **is not a retiree and** has performed services in the  
119 employ of the general assembly or either house thereof, or any employee of any  
120 member of the general assembly while acting in the person's official capacity as  
121 a member, and whose position does not normally require the person to perform  
122 duties during at least one thousand **forty** hours per year, with a month of service  
123 being any monthly pay period in which the employee was paid for full-time  
124 employment for that monthly period; **except that, persons described in this**  
125 **paragraph shall not include any such persons who are employed on or**  
126 **after August 28, 2006, and who have not previously been employed in**  
127 **such positions;**

128 (c) "Employee" does not include special consultants employed pursuant to  
129 section 104.610;

130 (d) [As used in this chapter, the hours governing the definition of  
131 employee shall be applied only from August 13, 1988, forward;

132 (e)] The system shall consider a person who is employed in multiple  
133 positions simultaneously within a single agency to be working in a single position  
134 for purposes of determining whether the person is an employee as defined in this  
135 subdivision;

136 (21) "Employer", a department of the state;

137 (22) "Executive director", the executive director employed by a board  
138 established pursuant to the provisions of this chapter;

139 (23) "Fiscal year", the period beginning July first in any year and ending  
140 June thirtieth the following year;

141 (24) "Full biennial assembly", the period of time beginning on the first day  
142 the general assembly convenes for a first regular session until the last day of the  
143 following year;

144 (25) "Fund", the benefit fund of a system established pursuant to this  
145 chapter;

146 (26) "Interest", interest at such rate as shall be determined and prescribed  
147 from time to time by a board;

148 (27) "Member", as used in sections 104.010 to 104.272 or 104.601 to  
149 104.800 shall mean a member of the highways and transportation employees' and

150 highway patrol retirement system without regard to whether or not the member  
151 has been retired. "Member", as used in this section and sections 104.312 to  
152 104.800, shall mean a member of the Missouri state employees' retirement system  
153 without regard to whether or not the member has been retired;

154 (28) "Membership service", the service after becoming a member that is  
155 recognized in determining a member's eligibility for and the amount of a  
156 member's benefits under a system;

157 (29) "Military service", all active service performed in the United States  
158 Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United  
159 States Public Health Service or any women's auxiliary thereof; and service in the  
160 Army national guard and Air national guard when engaged in active duty for  
161 training, inactive duty training or full-time national guard duty, and service by  
162 any other category of persons designated by the President in time of war or  
163 emergency;

164 (30) "Normal annuity", the annuity provided to a member upon retirement  
165 at or after the member's normal retirement age;

166 (31) "Normal retirement age", an employee's attainment of sixty-five years  
167 of age and the completion of four years of creditable service or the attainment of  
168 age sixty-five years of age and the completion of five years of creditable service  
169 by a member who has terminated employment and is entitled to a deferred  
170 normal annuity or the member's attainment of age sixty and the completion of  
171 fifteen years of creditable service, except that normal retirement age for  
172 uniformed members of the highway patrol shall be fifty-five years of age and the  
173 completion of four years of creditable service and uniformed employees of the  
174 water patrol shall be fifty-five years of age and the completion of four years of  
175 creditable service or the attainment of age fifty-five and the completion of five  
176 years of creditable service by a member of the water patrol who has terminated  
177 employment and is entitled to a deferred normal annuity and members of the  
178 general assembly shall be fifty-five years of age and the completion of three full  
179 biennial assemblies. Notwithstanding any other provision of law to the contrary,  
180 a member of the highways and transportation employees' and highway patrol  
181 retirement system or a member of the Missouri state employees' retirement  
182 system shall be entitled to retire with a normal annuity and shall be entitled to  
183 elect any of the survivor benefit options and shall also be entitled to any other  
184 provisions of this chapter that relate to retirement with a normal annuity if the  
185 sum of the member's age and creditable service equals eighty years or more and

186 if the member is at least forty-eight years of age;

187 (32) "Payroll deduction", deductions made from an employee's  
188 compensation;

189 (33) "Prior service credit", the service of an employee rendered prior to the  
190 date the employee became a member which service is recognized in determining  
191 the member's eligibility for benefits from a system but not in determining the  
192 amount of the member's benefit;

193 (34) "Reduced annuity", an actuarial equivalent of a normal annuity;

194 (35) "Retiree", a member who is not an employee and who is receiving an  
195 annuity from a system pursuant to this chapter;

196 (36) "System" or "retirement system", the [highways and transportation  
197 employees' and highway patrol retirement system] **Missouri department of**  
198 **transportation and highway patrol employees' retirement system**, as  
199 created by sections 104.010 to 104.270, or sections 104.601 to 104.800, or the  
200 Missouri state employees' retirement system as created by sections 104.320 to  
201 104.800;

202 (37) "Uniformed members of the highway patrol", the superintendent,  
203 lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants,  
204 corporals, and patrolmen of the Missouri state highway patrol who normally  
205 appear in uniform;

206 (38) "Uniformed members of the water patrol", employees of the Missouri  
207 state water patrol of the department of public safety who are classified as water  
208 patrol officers who have taken the oath of office prescribed by the provisions of  
209 chapter 306, RSMo, and who have those peace officer powers given by the  
210 provisions of chapter 306, RSMo;

211 (39) "Vesting service", the sum of a member's prior service credit and  
212 creditable service which is recognized in determining the member's eligibility for  
213 benefits under the system.

214 2. Benefits paid pursuant to the provisions of this chapter shall not exceed  
215 the limitations of Internal Revenue Code Section 415, the provisions of which are  
216 hereby incorporated by reference.

104.335. 1. Any member whose employment terminated prior to  
2 September 1, 1972, and (a) who had served at least three full biennial assemblies  
3 as a member of the general assembly, or (b) who was other than a member of the  
4 general assembly and who had fifteen or more years of vesting service shall be  
5 entitled to a deferred normal annuity based on the member's creditable service,

6 average compensation and the law in effect at the time the member's employment  
7 was terminated.

8         2. (1) Any member whose employment terminated on or after September  
9 1, 1972, and prior to July 1, 1981, and (a) who had served at least three full  
10 biennial assemblies as a member of the general assembly, or (b) who was other  
11 than a member of the general assembly and who had fifteen or more years of  
12 vesting service or who had ten or more years of vesting service and was at least  
13 thirty-five years of age at the date of termination of employment shall be entitled  
14 to a deferred normal annuity based on the member's creditable service, average  
15 compensation and the law in effect at the time the member's employment was  
16 terminated.

17         (2) Any member whose employment terminated on or after July 1, 1981,  
18 and (a) who had served at least three full biennial assemblies as a member of the  
19 general assembly, or (b) who was other than a member of the general assembly  
20 and who had ten or more years of vesting service at the date of termination of  
21 employment shall be entitled to a deferred normal annuity based on the member's  
22 creditable service, average compensation and the law in effect at the time the  
23 member's employment was terminated.

24         (3) Any member whose employment terminated on or after September 1,  
25 1972, and who had four or more years of vesting service as governor, lieutenant  
26 governor, secretary of state, auditor, treasurer, or attorney general of this state  
27 shall be entitled to a deferred normal annuity based on the member's creditable  
28 service, average compensation and the law in effect at the time the member's  
29 employment was terminated.

30         (4) Any member whose employment terminated on or after September 28,  
31 1985, and who (a) had served less than three full biennial assemblies as a  
32 member of the general assembly, and (b) has less than ten years of vesting service  
33 as an employee other than a member of the general assembly shall be entitled to  
34 two years of vesting service for each full biennial assembly in which the member  
35 served plus an additional amount of vesting service for each partial biennial  
36 assembly served, which amount shall be equal to the pro rata portion of the  
37 biennial assembly so served. The total amount of vesting service provided for in  
38 this subdivision shall be used to calculate the deferred normal annuity or  
39 deferred partial annuity to which such member is entitled based on the member's  
40 creditable service, which includes all service designated as vesting service under  
41 this subdivision, the member's average compensation, and the law in effect at the

42 time the member's employment was terminated.

43           3. Any member whose employment terminated on or after October 1, 1984,  
44 but before September 28, 1992, and who was other than a member of the general  
45 assembly and who has five or more years of vesting service as an employee at the  
46 date of termination of employment shall be entitled to a deferred partial annuity  
47 based on the member's creditable service, average compensation, and the law in  
48 effect at the time the member's employment was terminated, in the following  
49 amounts:

50           (1) An employee with at least five years of vesting service, but less than  
51 six years, is entitled to fifty percent of the amount payable as a deferred normal  
52 annuity;

53           (2) An employee with six years of vesting service, but less than seven  
54 years, is entitled to sixty percent of the amount payable as a deferred normal  
55 annuity;

56           (3) An employee with seven years of vesting service, but less than eight  
57 years, is entitled to seventy percent of the amount payable as a deferred normal  
58 annuity;

59           (4) An employee with eight years of vesting service, but less than nine  
60 years, is entitled to eighty percent of the amount payable as a deferred normal  
61 annuity;

62           (5) An employee with nine years of vesting service, but less than ten  
63 years, is entitled to ninety percent of the amount payable as a deferred normal  
64 annuity.

65           4. Any member whose employment terminated on or after September 28,  
66 1992, and who was other than a member of the general assembly and who has  
67 five or more years of vesting service as an employee at the date of termination of  
68 employment shall be entitled to a deferred normal annuity based on the member's  
69 creditable service, average compensation, and the law in effect at the time the  
70 member's employment was terminated.

71           5. Any member who is entitled to a deferred normal annuity as provided  
72 in subsection 1, 2, 3, or 4 of this section and who reenters the service of a  
73 department and again becomes a member of the system shall have the member's  
74 prior period of vesting service combined with the member's current membership  
75 service, so that any benefits that may become payable under this system by  
76 reason of the member's retirement or subsequent withdrawal will recognize such  
77 prior period of vesting service.

78           6. [(1) A vested member, an administrative law judge or legal advisor as  
79 defined in section 287.812, RSMo, or a judge as defined in section 476.515, RSMo,  
80 who has terminated all employment with the state of Missouri for a period of six  
81 months or longer, may make a one-time election for the system to pay the present  
82 value of a deferred annuity or a benefit as defined in section 287.812, RSMo, or  
83 section 476.515, RSMo, if the amount of such terminated member's or person's  
84 creditable service is less than ten years, and if such terminated member or person  
85 is not within five years of eligibility for receiving an annuity or benefit. Any such  
86 member, administrative law judge, legal advisor or judge who terminates  
87 employment on or after August 28, 1997, shall be eligible for the one-time election  
88 provided for in this subsection only if the present value of the deferred annuity  
89 does not exceed ten thousand dollars. The present value shall be actuarially  
90 determined by the system. Except as provided in subdivision (2) of this  
91 subsection, any payment so made shall be a complete discharge of the existing  
92 liability of the system with respect to such terminated member or person.

93           (2) Upon subsequent employment in a position covered under a system  
94 administered by the Missouri state employees' retirement system, the employee,  
95 administrative law judge or judge may elect, within one year of such employment,  
96 to purchase creditable service equal to the amount of creditable service  
97 surrendered due to a payment as specified in this subsection. The cost of such  
98 purchase shall be actuarially determined by the system, and shall be paid over  
99 a period of not longer than two years from the date of election, with interest on  
100 the unpaid balance.

101           (3) Persons described in subdivision (1) of this subsection who terminate  
102 employment on or after September 1, 2002, shall no longer be eligible to make the  
103 election described in subdivision (1) of this subsection.

104           7.] Any individual, covered by a retirement plan identified in this chapter,  
105 chapter 287 or chapter 476, RSMo, who terminated employment prior to August  
106 28, 1993, shall, upon application to the board of trustees of the Missouri state  
107 employees' retirement system, be made, constituted and appointed and employed  
108 by the board as a special consultant on the problems of retirement, aging and  
109 other state matters for the remainder of the person's life. Upon request of the  
110 board or the court from which the person retired, the consultant shall give  
111 opinions or be available to give opinions in writing or orally in response to such  
112 requests. As compensation for such services, the consultant shall be eligible to  
113 purchase or transfer, prior to retirement, creditable service as set forth in section

114 105.691, RSMo.

104.342. 1. Any person hired by the state on or after August 13, 1986, in  
2 any of the positions described in this subsection shall be a member of the system  
3 from the date on which such employment begins. This subsection shall apply to  
4 any person duly certified under the law governing the certification of teachers  
5 who is employed full time:

6 (1) As a teacher by the division of youth services;

7 (2) As a teacher by a division of the state department of social services  
8 and who renders services in a school whose standards of education are set and  
9 which is supervised by a public school officer of the county in which the school is  
10 located, by the department of elementary and secondary education or by the  
11 coordinating board for higher education;

12 (3) As a teacher by the section of inmate education of the department of  
13 corrections;

14 (4) In either a teaching or supervisory teaching capacity by the  
15 department of mental health, in which his or her duties include participation in  
16 the educational program of the department of mental health.

17 2. Any person employed in any of the positions described in subsection 1  
18 of this section immediately prior to and on August 13, 1986, may elect, in writing,  
19 to:

20 (1) Become a member of the Missouri state employees' retirement system  
21 effective January 1, 1987. Any person who, by virtue of an election made under  
22 this subdivision, becomes a member of the Missouri state employees' retirement  
23 system shall be entitled to creditable prior service credit for service rendered in  
24 any of the positions described in subsection 1 of this section. Members who so  
25 elect shall be eligible, upon written request filed with the public school retirement  
26 system, to receive a refund of their accumulated contributions including interest  
27 of six percent and upon payment of such refund, the public school retirement  
28 systems shall pay to the state employees' retirement system before June 30, 1987,  
29 an amount equal to the amount paid the public school retirement system on  
30 behalf of each member so electing by the member's employer; or

31 (2) Remain a member of the public school retirement system of Missouri  
32 created under sections 169.010 to 169.140, RSMo. Any person entitled to make  
33 the election provided by this subsection who does not make such election, in  
34 writing, by January 1, 1987, shall be deemed to have elected to be governed by  
35 subdivision (1) of this subsection.

36           3. Any person who is employed on a full-time basis by Truman State  
37 University, Northwest Missouri State University, Central Missouri State  
38 University, Southeast Missouri State University, [Southwest] Missouri State  
39 University, Harris-Stowe State [College] **University** or Missouri Southern State  
40 [College] **University** and Missouri Western State [College] **University** shall be  
41 a member of the system; except that any person who is duly certified under the  
42 laws governing the certification of teachers and who is a full-time employee of  
43 such institution or institutions on June 14, 1989, and is contributing because of  
44 such employment to a retirement system established under sections 169.010 to  
45 169.140, RSMo, or sections 169.410 to 169.540, RSMo, may make an election to  
46 continue in that retirement system if such election is made on or before December  
47 31, 1989. This election shall not apply to any such person who commenced  
48 receiving retirement benefits prior to January 1, 1990, from any state retirement  
49 system because of such service.

50           4. Effective January 1, 1990, only after an affirmative referendum in  
51 accordance with section 105.353, RSMo, any person who is employed on a  
52 full-time basis by the department of elementary and secondary education shall  
53 be a member of the system; except that any person duly certified under the law  
54 governing the certification of teachers who is a full-time employee at any time  
55 during the period extending from June 14, 1989, through December 31, 1989, and  
56 is contributing because of such employment to the retirement system established  
57 under sections 169.010 to 169.140, RSMo, may elect to continue in that  
58 retirement system if such election is made on or before December 31, 1989. This  
59 election shall not apply to any such person who commenced receiving retirement  
60 benefits prior to January 1, 1990, from any state retirement system because of  
61 such service.

62           5. On June 14, 1989, all newly employed persons in the positions  
63 described in subsection 3 of this section shall become members of the Missouri  
64 state employees' retirement system. Effective January 1, 1990, and only after an  
65 affirmative referendum provided for in subsection 4 of this section, all newly  
66 employed persons in the positions described in subsection 4 of this section shall  
67 become members of the Missouri state employees' retirement system.

68           6. Any employee actively employed on June 14, 1989, who, because of  
69 employment in a position described in subsection 1, 3 or 4 of this section, has  
70 creditable service in this system for such employment which at the time the  
71 service was rendered was not covered by the federal Social Security Act, shall

72 remain in this system and be entitled to the benefits provided under subdivision  
73 (1) of subsection 7 of this section; except that any such employee who has  
74 creditable service in this system because of employment in a position described  
75 in subsection 4 of this section which is not covered by the federal Social Security  
76 Act on January 1, 1990, shall not be entitled to the benefits provided under  
77 subdivision (1) of subsection 7 of this section for such creditable service.

78         7. Any person entitled to make the election provided by subsection 3 or  
79 4 of this section, who does not make such election, in writing, on or before  
80 December 31, 1989, shall be deemed to have elected to be governed by subdivision  
81 (1) of this subsection:

82         (1) Those persons described in subsections 3 and 4 of this section who  
83 elect or have elected by written request filed with the board to be members of this  
84 system, shall be entitled to creditable prior service for service rendered in any of  
85 the positions described in subsections 1, 3 and 4 of this section. Any person who  
86 so elects shall be eligible, upon written request filed with the board on or before  
87 March 31, 1990, with the retirement system established under sections 169.010  
88 to 169.140, RSMo, or sections 169.410 to 169.540, RSMo, to receive a refund of the  
89 member's accumulated contributions for the creditable service in any of the  
90 positions described in subsections 1, 3 and 4 of this section, plus interest at an  
91 annual rate of six percent computed on the refundable balance, if any, in the  
92 member's account in that retirement system as of June 30, 1989. Such refunds  
93 shall be made prior to June 1, 1990. If any creditable prior service transferred  
94 under subsection 1, 3 or 4 of this section, or subsection 3 of section 104.372,  
95 includes periods of service not covered by the federal Social Security Act, as  
96 provided in sections 105.300 to 105.445, RSMo, then, in calculating the benefit  
97 amount payable to such member, the normal annuity shall be an amount equal  
98 to two and one-tenth percent of the average compensation of the member  
99 multiplied by the number of years of such creditable service for the positions  
100 described in subsections 1, 3 and 4 of this section not covered by the federal  
101 Social Security Act in addition to an amount payable under section 104.374 for  
102 all service covered by the federal Social Security Act. The normal annuity as  
103 described in this subdivision shall be adjusted for early retirement, if applicable;

104         (2) Any person described in subsections 3 and 4 of this section, who elects  
105 to remain in one of the retirement systems established under sections 169.010 to  
106 169.140, RSMo, or sections 169.410 to 169.540, RSMo, shall, notwithstanding any  
107 provision of chapter 169, RSMo, to the contrary, be a noncontributing member of

108 such system and shall receive a refund of the member's accumulated  
109 contributions for the creditable service in any of the positions described in  
110 subsection 1, 3 or 4 of this section, plus interest at an annual rate of six percent  
111 computed on the refundable balance, if any, in the member's account in that  
112 retirement system as of June 30, 1989. Such refunds shall be made prior to June  
113 1, 1990. At the time of retirement under the provisions of sections 169.010 to  
114 169.140, RSMo, or sections 169.410 to 169.540, RSMo, such person shall receive  
115 a retirement benefit computed under the then existing law of that retirement  
116 system; except that, for any person employed in a position described in subsection  
117 4 of this section, the benefit shall be the amount computed as though the position  
118 were not covered by the federal Social Security Act, reduced by the amount of any  
119 federal Social Security benefit the person may receive which is attributable to  
120 service rendered in the positions described in subsection 4 of this section after  
121 December 31, 1989.

122         8. Upon payment of the refunds provided in subdivision (1) of subsection  
123 7 of this section, each refunding retirement system shall pay to the state  
124 employees' retirement system, by December 31, 1990, an amount actuarially  
125 determined to equal the liability transferred from such retirement systems. At  
126 least ninety days before each regular session of the general assembly the board  
127 of trustees of the affected public school retirement system shall certify to the  
128 division of budget an actuarially determined estimate of the amount which will  
129 be necessary during the next appropriation period to pay all liabilities, including  
130 costs of administration, which shall exist or accrue under subsections 1 through  
131 7 of this section during such period. The estimate shall be computed as a level  
132 percentage of payroll compensation to cover the normal cost and to amortize the  
133 accrued liability over a period not to exceed forty years. The commissioner of  
134 administration shall request appropriation of the amount calculated under the  
135 provisions of this subsection. The commissioner of administration monthly shall  
136 requisition and certify the payment to the executive secretary of the appropriate  
137 school retirement system.

138         9. Notwithstanding any provisions of chapter 169, RSMo, to the contrary,  
139 any member who becomes a member under the provisions of subsection 2, 5, or  
140 7 of this section and who has creditable service with a public school retirement  
141 system under that chapter because of employment with any employer other than  
142 those defined in subsection 1, 3, or 4 of this section shall immediately vest in that  
143 public school retirement system and upon attainment of the minimum retirement

144 age of that system shall be entitled to a monthly benefit based on such creditable  
145 service and the law in effect at that time, provided the person does not elect to  
146 withdraw the member's accumulated contributions for such creditable service  
147 from that public school retirement system.

148         10. Effective July 1, 1988, the Lincoln University board of curators shall  
149 terminate the Lincoln University retirement, disability and death benefit plan  
150 and shall purchase through competitive bids annuities adequate to cover the  
151 liability for all benefits presently being paid from such plan to former employees  
152 or their surviving beneficiaries upon the death of the employee as provided by  
153 such plan at the time of the commencement of benefits to such former employees  
154 or beneficiaries. Lincoln University shall pay to the Missouri state employees'  
155 retirement system on or before July 1, 1988, an amount equal to all funds and  
156 securities thereon contained in the Lincoln University retirement, disability and  
157 death benefit plan less the amount needed to purchase annuities for retiree and  
158 survivor benefits.

159         11. Effective July 1, 1988, the Lincoln University board of curators shall  
160 certify to the board of trustees of the Missouri state employees' retirement system  
161 all persons eligible to receive but not yet receiving benefits under the Lincoln  
162 University retirement, disability and death benefit plan, for service prior to June  
163 30, 1988, together with the amounts payable and supporting documentation as  
164 to the methods, plan provisions and data used to calculate such benefits, to the  
165 satisfaction of the board of trustees of the Missouri state employees' retirement  
166 system, and the Missouri state employees' retirement system shall assume  
167 responsibility for payment of such benefits in the future.

168         12. Any person employed on a full-time basis by Lincoln University on or  
169 after July 1, 1988, shall become a member of the Missouri state employees'  
170 retirement system, and may elect in writing to receive creditable prior service for  
171 all full-time service to Lincoln University if such service is not now credited the  
172 member under the Missouri state employees' retirement system, and provided the  
173 member elects in writing to forfeit all rights accrued under the Lincoln University  
174 retirement, disability and death benefit plan for such service.

175         13. (1) Any person who is employed by Harris-Stowe State College as a  
176 teacher or administrator on August 28, 1995, who was employed full time by  
177 Harris-Stowe College prior to September 1, 1978, who became a member of the  
178 Missouri state employees' retirement system on or after September 1, 1978, and  
179 who has been continuously employed by the college, may purchase creditable

180 prior service for any service rendered to Harris-Stowe College prior to September  
181 1, 1978, which is not otherwise credited under the Missouri state employees'  
182 retirement system, not to exceed twelve years;

183 (2) Any person eligible to purchase creditable prior service under the  
184 provisions of subdivision (1) of this subsection may make written application to  
185 the board of trustees of the Missouri state employees' retirement system prior to  
186 retirement, but not later than April 1, 1996. The purchase shall be effected by  
187 the member and the public school retirement system of which the member was  
188 previously a member paying to the Missouri state employees' retirement system  
189 the following amounts:

190 (a) The amount contributed by the employee to the St. Louis public school  
191 retirement system during the years of prior service with Harris-Stowe College for  
192 which the employee seeks to purchase creditable prior service in the Missouri  
193 state employees' retirement system, including interest which may have been  
194 credited to the member's individual account with the system, or which would have  
195 been credited to the account had it remained with the St. Louis public school  
196 retirement system; and

197 (b) An amount which shall not be less than zero and which shall equal the  
198 actuarial accrued liability of the St. Louis public school retirement system for the  
199 prior service, determined as of the transfer date as if the member were still in  
200 active service covered by the St. Louis public school retirement system, less the  
201 amount stipulated in paragraph (a) of this subdivision;

202 (c) If the member had received a refund of contributions related to service  
203 covered by the St. Louis public school retirement system, the amount stipulated  
204 in paragraph (a) of this subdivision shall be paid to the Missouri state employees'  
205 retirement system by the member, otherwise, such amount shall be paid to the  
206 Missouri state employees' retirement system by the St. Louis public school  
207 retirement system;

208 (3) Any amount payable to the Missouri state employees' retirement  
209 system by the member may be paid in a lump sum or in monthly installments. If  
210 paid in monthly installments, the period over which payments are being made  
211 may not extend beyond the earlier of the member's retirement date or April 1,  
212 1997, and shall include interest at a rate established by the board of trustees of  
213 the Missouri state employees' retirement system;

214 (4) Any amounts payable to the Missouri state employees' retirement  
215 system by the St. Louis public schools retirement system shall be paid in a lump

216 sum and shall not be paid later than the earlier of the member's retirement date  
217 or April 1, 1997, and shall include interest at a rate established by the board of  
218 trustees of the Missouri state employees' retirement system;

219 (5) Any person who elects to purchase creditable prior service under the  
220 provisions of this section shall file with the St. Louis public school retirement  
221 system an irrevocable waiver and release of any rights and benefits in that  
222 system for the creditable prior service being purchased. The member shall file  
223 with the Missouri state employees' retirement system a copy of the waiver and  
224 an affidavit stating that he or she is no longer eligible to receive benefits or  
225 credits in any other retirement system for the creditable prior service being  
226 purchased;

227 (6) All retirement plans defined under section 105.660, RSMo, shall  
228 develop a procurement action plan for utilization of minority and women money  
229 managers, brokers and investment counselors. Such retirement systems shall  
230 report their progress annually to [the joint committee on public employee  
231 retirement and] the governor's minority advocacy commission.

232 14. In no event shall any person receive service credit for the same period  
233 of service under more than one retirement system.

104.344. Notwithstanding any other law to the contrary, any person who  
2 is actively employed by the state of Missouri in a position covered by a retirement  
3 plan administered by the Missouri state employees' retirement system and who  
4 had nonfederal full-time public employment in the state of Missouri [or who had  
5 provided full-time services for compensation to the state of Missouri under a  
6 contract], and who by virtue of such employment was a member of a retirement  
7 system or other employer-sponsored retirement plan other than the Missouri  
8 state employees' retirement system but is not vested in such other retirement  
9 system or plan, or was not a member of any retirement system or plan, may elect,  
10 prior to retirement, to purchase all of the member's creditable prior service but  
11 not to exceed four years for such service in any plan administered by the Missouri  
12 state employees' retirement system in which the person is receiving service credit  
13 for active employment or is eligible for a deferred annuity. The purchase shall  
14 be effected by the person paying to the Missouri state employees' retirement  
15 system an amount equal to what would have been contributed by the state in his  
16 or her behalf had the person been a member for the period for which he or she is  
17 electing to purchase credit and had the person's compensation during such period  
18 been the same as the annual salary rate at which the person was initially

19 employed **by a department** in a position covered by a [plan administered by the  
20 Missouri state employees' retirement] system, with the calculations based on the  
21 contribution rate in effect on the date of his or her employment under the  
22 provisions of the Missouri state employees' retirement system with simple  
23 interest calculated from the date of employment from which the person could first  
24 receive creditable service from the Missouri state employees' retirement system  
25 to the date of election to purchase such service. The payment shall be made over  
26 a period of not longer than two years, with simple interest on the unpaid balance.  
27 In no event shall any person receive credit or benefits under any other retirement  
28 plan as defined pursuant to section 105.691, RSMo, for creditable service  
29 purchased pursuant to the provisions of this section. The contribution rate for  
30 any judge who elects to purchase service for a period prior to July 1, 1998, shall  
31 be equal to a contribution rate which would be used if the judicial system were  
32 funded on an actuarial basis prior to that date.

104.352. 1. [Any employee or former employee described in paragraph (b)  
2 of subdivision (18) of section 104.010 is entitled to credit for all prior service and  
3 membership service as if he had been a member of the system on the date of its  
4 inception. Any such employee shall be considered a member of the system from  
5 the date of his or her employment and shall receive credit for each month of  
6 service for which he is employed with service being computed as if part-time  
7 employment with the general assembly were full-time employment for the period  
8 the member was so employed.

9 2.] Each employee described in paragraph (b) of subdivision [(18)] **(20)** of  
10 section 104.010 shall be entitled to the same insurance benefits provided under  
11 sections 103.003 to 103.175, RSMo to employees described in paragraph (a) of  
12 subdivision [(18)] **(20)** of section 104.010 to cover the medical expenses of such  
13 employees and their spouses and children. Such insurance benefits shall be made  
14 available to employees described in paragraph (b) of subdivision [(18)] **(20)** of  
15 section 104.010 upon their initial employment as such employees in the same  
16 manner provided for employees described in paragraph (a) of subdivision [(18)]  
17 **(20)** of section 104.010, and shall be continued during any period of time, not to  
18 exceed one year, in which such employees are not paid for full-time employment,  
19 so long as such employees pay the same amount for such insurance benefits as  
20 is required of employees described in paragraph (a) of subdivision [(18)] **(20)** of  
21 section 104.010 who continue receiving such insurance benefits during a leave of  
22 absence without pay from their employment with the state. Any employee

23 described in paragraph (b) of subdivision [(18)] (20) of section 104.010 who is  
24 reemployed by the general assembly or either house thereof, or by any member  
25 of the general assembly while acting in his official capacity as a member, by the  
26 thirteenth legislative day of the session of the general assembly immediately  
27 following the session of the general assembly in which such employee was last so  
28 employed, without having elected to discontinue the insurance benefits described  
29 in this subsection, shall be entitled to continue such insurance benefits without  
30 having to prove insurability for himself or any of his covered dependents for  
31 whom he has paid for such coverage continuously since last employed as an  
32 employee described in paragraph (b) of subdivision [(18)] (20) of section  
33 104.010. Any employee described in paragraph (b) of subdivision [(18)] (20) of  
34 section 104.010 who is not reemployed by the general assembly or either house  
35 thereof, or by any member of the general assembly while acting in his official  
36 capacity as a member, by the thirteenth legislative day of the session of the  
37 general assembly immediately following the session of the general assembly in  
38 which such employee was last so employed, shall be deemed terminated as an  
39 employee as of such thirteenth legislative day, and the insurance benefits  
40 provided for such employee under this subsection and sections 103.003 to 103.175,  
41 RSMo, shall be terminated as provided for employees described in paragraph (a)  
42 of subdivision [(18)] (20) of section 104.010 whose employment is  
43 terminated. During each month of service in which an employee described in  
44 paragraph (b) of subdivision [(18)] (20) of section 104.010 is employed, the state  
45 shall make any contribution required by sections 103.003 to 103.175, RSMo, for  
46 such employee.

47 [3.] 2. Any employee described in paragraph (b) of subdivision [(18)] (20)  
48 of section 104.010 who is actively employed on or after September 28, 1992, shall  
49 be deemed vested for purposes of determining eligibility for benefits under  
50 sections 104.320 to 104.620 after being so employed for at least sixty months.

104.354. In each fiscal year in which retirement benefits are to be paid to  
2 retired employees described in paragraph (b) of subdivision [(18)] (20) of section  
3 104.010 because of the provisions of section 104.352, funding for such benefits  
4 shall be provided as set forth in section 104.436. All benefits paid because of the  
5 provisions of section 104.352 shall be paid by the retirement system along with  
6 all other retirement benefits due such retired employees under the retirement  
7 system.

104.378. Upon the death of a member who has not requested creditable

2 prior service [pursuant to] **under section 104.339, subsections 2, 6, 7, 8, and**  
3 **9 of section 104.340, subsection 12 of section 104.342, subsection 4 of**  
4 **section 104.345,** subsection 4 of section 104.372, **section 104.800, section**  
5 **178.639, RSMo, or section 211.393, RSMo,** the survivor of such member who  
6 is or would be eligible to receive benefits pursuant to section 104.420 may apply  
7 to the board of trustees and shall be made, constituted, appointed and employed  
8 by the board as a special consultant on the problems of retirement, aging and  
9 other state matters for the remainder of the surviving spouse's life, and upon  
10 request of the board shall give opinions, and be available to give opinions in  
11 writing, or orally, in response to such requests. As compensation for such  
12 services, such survivor may elect to have the member receive such creditable prior  
13 service **or transfer such service.** Upon making such election, all of the  
14 [provisions of subsection 4 of section 104.372] **applicable law as provided in**  
15 **this section** shall apply. Any survivor benefits payable shall be calculated as  
16 if such creditable prior service **or transferred service** had been received by  
17 such member on the date of the death of the member.

104.380. If a retired member is [elected to any state office or is appointed  
2 to any state office or is employed by a department in a position normally  
3 requiring the performance by the person of duties during not less than one  
4 thousand hours per year,] **employed as an employee by a department,** the  
5 member shall not receive an annuity for any month or part of a month for which  
6 the member serves as an [officer or] employee, but the member shall be  
7 considered to be a new employee with no previous creditable service and must  
8 accrue creditable service in order to receive any additional annuity. Any retired  
9 member who again becomes an employee and who accrues additional creditable  
10 service and later retires shall receive an additional amount of monthly annuity  
11 calculated to include only the creditable service and the average compensation  
12 earned by the member since such employment or creditable service earned as a  
13 member of the general assembly. Years of membership service and twelfths of a  
14 year are to be used in calculating any additional annuity except for creditable  
15 service earned as a member of the general assembly, and such additional annuity  
16 shall be based on the type of service accrued. In either event, the original  
17 annuity and the additional annuity, if any, shall be paid commencing with the  
18 end of the first month after the month during which the member's term of office  
19 has been completed, or the member's employment terminated. [If a retired  
20 member is employed by a department in a position that does not normally require

21 the person to perform duties during at least one thousand hours per year, the  
22 member shall not be considered an employee as defined pursuant to section  
23 104.010.] A retired member who becomes reemployed as an employee on or after  
24 August 28, 2001, in a position covered by the highways and transportation  
25 employees' and highway patrol retirement system shall not be eligible to receive  
26 retirement benefits or additional creditable service from the state employees'  
27 retirement system.

104.395. 1. In lieu of the normal annuity otherwise payable to a member  
2 pursuant to section 104.335, 104.370, 104.371, 104.374 or 104.400, and prior to  
3 the last business day of the month before the annuity starting date pursuant to  
4 section 104.401, a member shall elect whether or not to have such member's  
5 normal annuity reduced as provided by the options set forth in this section;  
6 provided that if such election has not been made within such time, annuity  
7 payments due beginning on and after such annuity starting date shall be made  
8 the month following the receipt by the system of such election, and further  
9 provided, that if such person dies after such annuity starting date but before  
10 making such election, no benefits shall be paid except as required pursuant to  
11 section 104.420:

12 Option 1. An actuarial reduction approved by the board of the member's  
13 annuity in reduced monthly payments for life during retirement with the  
14 provision that upon the member's death the reduced annuity at the date of the  
15 member's death shall be continued throughout the life of, and be paid to, the  
16 member's spouse to whom the member was married at the date of retirement and  
17 who was nominated by the member to receive such payments in the member's  
18 application for retirement or as otherwise provided pursuant to subsection 5 of  
19 this section. Such annuity shall be reduced in the same manner as an annuity  
20 under option 2 as in effect immediately prior to August 28, 1997. The surviving  
21 spouse shall designate a beneficiary to receive any final monthly payment due  
22 after the death of the surviving spouse; or

23 Option 2. The member's normal annuity in regular monthly payments for  
24 life during the member's retirement with the provision that upon the member's  
25 death a survivor's benefit equal to one-half the member's annuity at the date of  
26 the member's death shall be paid to the member's spouse to whom the member  
27 was married at the date of retirement and who was nominated by the member to  
28 receive such payments in the member's application for retirement or as otherwise  
29 provided pursuant to subsection 5 of this section, in regular monthly payments

30 for life. The surviving spouse shall designate a beneficiary to receive any final  
31 monthly payment due after the death of the surviving spouse; or

32       Option 3. An actuarial reduction approved by the board of the member's  
33 normal annuity in reduced monthly payments for the member's life with the  
34 provision that if the member dies prior to the member having received one  
35 hundred twenty monthly payments of the member's reduced annuity, the  
36 member's reduced annuity to which the member would have been entitled had the  
37 member lived shall be paid for the remainder of the one hundred twenty months'  
38 period to such person as the member shall have nominated by written designation  
39 duly executed and filed with the board. If there is no such beneficiary surviving  
40 the retirant, the reserve for such annuity for the remainder of such one hundred  
41 twenty months' period shall be paid [to the retirant's estate] **as provided under**  
42 **subsection 3 of section 104.620.** If such beneficiary dies after the member's  
43 date of death but before having received the remainder of the one hundred twenty  
44 monthly payments of the retiree's reduced annuity, the reserve for such annuity  
45 for the remainder of such one hundred twenty-month period shall be paid [to the  
46 beneficiary's estate] **as provided under subsection 3 of section 104.620;** or

47       Option 4. An actuarial reduction approved by the board of the member's  
48 normal annuity in reduced monthly payments for the member's life with the  
49 provision that if the member dies prior to the member having received sixty  
50 monthly payments of the member's reduced annuity, the member's reduced  
51 annuity to which the member would have been entitled had the member lived  
52 shall be paid for the remainder of the sixty months' period to such person as the  
53 member shall have nominated by written designation duly executed and filed  
54 with the board. If there be no such beneficiary surviving the retirant, the reserve  
55 for such annuity for the remainder of such sixty months' period shall be paid [to  
56 the retirant's estate] **as provided under subsection 3 of section 104.620.** If  
57 such beneficiary dies after the member's date of death but before having received  
58 the remainder of the sixty monthly payments of the retiree's reduced annuity, the  
59 reserve for such annuity for the remainder of the sixty-month period shall be paid  
60 [to the beneficiary's estate] **as provided under subsection 3 of section**  
61 **104.620.**

62       2. Effective July 1, 2000, if a member is married as of the annuity starting  
63 date to a person who has been the member's spouse, the member's annuity shall  
64 be paid pursuant to the provisions of either option 1 or option 2 as set forth in  
65 subsection 1 of this section, at the member's choice, with the spouse as the

66 member's designated beneficiary unless the spouse consents in writing to the  
67 member electing another available form of payment.

68         3. For members who retire on or after August 28, 1995, in the event such  
69 member elected a joint and survivor option pursuant to the provisions of this  
70 section and the member's eligible spouse or eligible former spouse precedes the  
71 member in death, the member's annuity shall revert effective the first of the  
72 month following the death of the spouse or eligible former spouse [regardless of  
73 when the board receives the member's written application for the benefit provided  
74 in this subsection, to an amount equal to the member's normal annuity, as  
75 adjusted for early retirement if applicable] **to a normal annuity, as adjusted**  
76 **for early retirement if applicable, if the member cancels the member's**  
77 **original joint and survivor election**; such benefit shall include any increases  
78 the member would have received since the date of retirement had the member  
79 elected a normal annuity.

80         4. Effective on or after August 28, 1995, any retired member who had  
81 elected a joint and survivor option and whose spouse or eligible former spouse  
82 precedes or preceded the member in death shall upon application to the board be  
83 made, constituted, appointed and employed by the board as a special consultant  
84 on the problems of retirement, aging and other state matters. As a special  
85 consultant pursuant to the provisions of this section, the member's reduced  
86 annuity shall revert to a normal annuity as adjusted for early retirement, if  
87 applicable, effective the first of the month following the death of the spouse or  
88 eligible former spouse or August 28, 1995, whichever is later, [regardless of when  
89 the board receives the member's written application] **if the member cancels**  
90 **the member's original joint and survivor election**; such annuity shall  
91 include any increases the retired member would have received since the date of  
92 retirement had the member elected a normal annuity.

93         5. Effective July 1, 2000, a member may make an election under option  
94 1 or 2 after the date retirement benefits are initiated if the member makes such  
95 election within one year from the date of marriage or July 1, 2000, whichever is  
96 later, under any of the following circumstances:

97         (1) The member elected to receive a normal annuity and was not eligible  
98 to elect option 1 or 2 on the date retirement benefits were initiated; or

99         (2) The member's annuity reverted to a normal annuity pursuant to  
100 subsection 3 or 4 of this section and the member remarried.

101         6. Any person who terminates employment or retires prior to July 1, 2000,

102 shall be made, constituted, appointed and employed by the board as a special  
103 consultant on the problems of retirement, aging and other state matters, and for  
104 such services shall be eligible to elect to receive the benefits described in  
105 subsection 5 of this section.

106 7. Effective September 1, 2001, the retirement application of any member  
107 who fails to make an election pursuant to subsection 1 of this section within  
108 ninety days of the annuity starting date contained in such retirement application  
109 shall be nullified. Any member whose retirement application is nullified shall not  
110 receive retirement benefits until the member files a new application for  
111 retirement pursuant to section 104.401 and makes the election pursuant to  
112 subsection 1 of this section. In no event shall any retroactive retirement benefits  
113 be paid.

114 8. **A member may change a member's election made under this**  
115 **section at any time prior to the system mailing or electronically**  
116 **transferring the first annuity payment to such member.**

104.410. 1. Any uniformed member of the water patrol who shall be  
2 affirmatively found by the board to be wholly and permanently incapable of  
3 holding any position of gainful employment as a result of injuries or illness  
4 incurred in the performance of the member's duties shall be entitled to receive  
5 disability benefits in an amount equal to one-half of the compensation that the  
6 employee was receiving at the time of the occurrence of the injury entitling the  
7 employee to such disability benefits. Any disability benefit payable pursuant to  
8 this subsection shall be decreased by any amount paid to such uniformed member  
9 of the water patrol by reason of the workers' compensation laws of this  
10 state. After termination of payment under workers' compensation, however, any  
11 such reduction and disability benefits shall be restored.

12 2. The board of trustees may require a medical examination of any  
13 uniformed member of the water patrol who is receiving disability benefits  
14 pursuant to this section at any time by a designated physician, and disability  
15 benefits shall be discontinued if the board finds that such member is able to  
16 perform the duties of the member's former position, or if such member refuses to  
17 submit to such an examination.

18 3. The disability benefits described in this section shall not be paid to any  
19 uniformed member of the water patrol who has retained or regained more than  
20 fifty percent of the member's earning capacity. If any uniformed member of the  
21 water patrol who has been receiving disability benefits again becomes an

22 employee, the member's disability benefits shall be discontinued, the member's  
23 prior period of creditable service shall be restored, and any subsequent  
24 determination of benefits due the member or the member's survivors shall be  
25 based on the sum of the member's creditable service accrued to the date the  
26 member's disability benefits commenced and the period of creditable service after  
27 the member's return to employment.

28 4. Any uniformed member of the water patrol receiving benefits pursuant  
29 to the provisions of this section for five or more years immediately prior to  
30 attainment of age fifty-five shall be considered a normal retirant at age fifty-five,  
31 and may elect, within thirty days preceding the attainment of age fifty-five,  
32 option 1 of section 104.395, but only for the member's spouse who was the  
33 member's spouse for two or more years prior to the member's attainment of age  
34 fifty-five.

35 5. Any member who is receiving disability benefits as of December 31,  
36 1985, or any member who is disabled on December 31, 1985, and would have been  
37 entitled to receive disability benefits pursuant to this section as the provisions  
38 of this section existed immediately prior to September 28, 1985, shall be eligible  
39 to receive or shall continue to receive benefits in accordance with such prior  
40 provisions of this section until the member again becomes an employee; however,  
41 all employees of the department of conservation who are disabled shall receive  
42 benefits pursuant only to this section or section 104.518, whichever is applicable,  
43 and shall not be eligible for benefits under any other plan or program purchased  
44 or provided after September 28, 1985.

45 6. Any member who qualifies for disability benefits pursuant to subsection  
46 1 of this section or pursuant to the provisions of section 104.518, or under a  
47 long-term disability program provided by the member's employing department as  
48 a consequence of employment by the department, shall continue to accrue  
49 creditable service based on the member's rate of pay immediately prior to the  
50 date the member became disabled in accordance with sections 104.370, 104.371,  
51 104.374 and 104.615, until the date the member's retirement benefit goes into pay  
52 status, the disability benefits cease being paid to the member, or the member is  
53 no longer disabled, whichever comes first. Persons covered by the provisions of  
54 sections 476.515 to 476.565, RSMo, or sections 287.812 to 287.855, RSMo, who  
55 qualify for disability benefits pursuant to the provisions of section 104.518, at the  
56 date the person becomes disabled, shall continue to accrue creditable service  
57 based on the person's rate of pay immediately prior to the date the person

58 becomes disabled until the date the person's retirement benefit goes into pay  
59 status, the disability benefits cease being paid to the person or the person is no  
60 longer disabled, whichever comes first. [Members or persons continuing to accrue  
61 creditable service pursuant to this subsection shall be entitled to continue their  
62 life insurance coverage subject to the provisions of the life insurance plan  
63 administered by the board pursuant to section 104.517.] **For the purposes of**  
64 **life insurance coverage under sections 104.515 and 104.517, a person**  
65 **who is receiving disability benefits under this section shall be required**  
66 **to pay the cost of life insurance coverage provided under section**  
67 **104.517 in order to receive such coverage, unless such person is eligible**  
68 **to receive such insurance at no cost under any waiver of premium**  
69 **provision that may exist under the contract for life insurance. For**  
70 **purposes of eligibility to apply for retirement, persons receiving**  
71 **disability benefits under this section shall be treated as if they were**  
72 **active employees during their period of disability.** The rate of pay for  
73 purposes of calculating retirement benefits for a member or person described in  
74 this subsection who becomes disabled and retires on or after August 28, 1999,  
75 shall be the member's or person's regular monthly compensation received at the  
76 time of disablement, increased thereafter for any increases in the consumer price  
77 index. Such increases in the member's monthly pay shall be made annually  
78 beginning twelve months after disablement and shall be equal to eighty percent  
79 of the increase in the consumer price index during the calendar year prior to the  
80 adjustment, but not more than five percent of the member's monthly pay  
81 immediately before the increase. Such accruals shall continue until the earliest  
82 of: receipt of an early retirement annuity, attainment of normal retirement  
83 eligibility or termination of disability benefits.

84       7. A member or person who continues to be disabled as provided in  
85 subsection 6 of this section until the member's normal retirement age shall be  
86 eligible to retire on the first day of the month next following the member's or  
87 person's final payment pursuant to section 104.518 or, if applicable, subsection  
88 1 of this section. A member or person who retires pursuant to this subsection  
89 shall receive the greater of the normal annuity or the minimum annuity, if  
90 applicable, determined pursuant to sections 104.370, 104.371, 104.374 and  
91 104.615, and section 287.820, RSMo, and section 476.530, RSMo, as if the member  
92 or person had continued in the active employ of the employer until the member's  
93 or person's retirement benefit goes into pay status, the disability benefits cease

94 being paid to the member or person, or the member or person is no longer  
95 disabled, whichever comes first and the member's or person's compensation for  
96 such period had been the member's or person's rate of pay immediately preceding  
97 the date the member or person became disabled.

98         8. If a member who has been disabled becomes an employee again and if  
99 the member was disabled during the entire period of the member's absence, then  
100 the member shall resume active participation as of the date of  
101 reemployment. Such a member shall receive creditable service for the entire  
102 period the member was disabled as provided in subsection 6 of this section.

103         9. If a member ceases to be disabled and if the member does not return  
104 to work as provided in subsection 8 of this section, the member's rights to further  
105 benefits shall be determined in accordance with sections 104.335, 104.380,  
106 104.400, 104.420 and 104.615 as though the member had withdrawn from service  
107 as of the date the member ceased to be disabled, as determined by the system.

104.450. 1. The board of trustees shall consist of the state treasurer, the  
2 commissioner of administration, two members of the senate appointed by the  
3 president pro tem of the senate, two members of the house of representatives  
4 appointed by the speaker of the house, two members appointed by the governor,  
5 and three **elected** members [who are members of the system, one of whom] **that**  
6 **shall each serve four-year terms. One elected member** shall be a retiree  
7 elected by a plurality vote of [retired members] **retirees** and two of [whom] **the**  
8 **elected members** shall be employees, elected by a plurality vote of [the  
9 members of the system not retired for four-year terms] **employees and former**  
10 **employees eligible for a deferred annuity and not retired. For purposes**  
11 **of this section, "retiree" shall include any retiree under this chapter,**  
12 **any judge as defined under section 476.515, RSMo, who is retired, and**  
13 **any administrative law judge or legal advisor as those terms are**  
14 **defined under section 287.812, RSMo, who is retired. For purposes of**  
15 **this section, "employees" shall include any employee under this chapter**  
16 **who is actively employed, any judge as defined under section 476.515,**  
17 **RSMo, who is actively employed, and any administrative law judge or**  
18 **legal advisor as those terms are defined under section 287.812, RSMo,**  
19 **who is actively employed.** The board so constituted shall determine, by  
20 **board rule**, the procedures for nomination and election of the elective board  
21 members. The first two trustees designated above shall serve as trustees during  
22 their respective terms of office; the legislative members shall serve as trustees

23 until such time as they resign, are no longer members of the general assembly,  
24 or are replaced by new appointments; and the members appointed by the governor  
25 shall serve as trustees until such time as they resign or are replaced by new  
26 appointments. Any vacancies occurring in the office of trustees shall be filled in  
27 the same manner as the office was filled previously except that vacancies  
28 occurring in the offices of the elected board members may be filled by the board  
29 of trustees until the next regularly scheduled election.

30 **2. The office of a trustee as described in subsection 1 of this**  
31 **section shall be deemed vacated in the event such trustee is convicted**  
32 **of a crime involving stealing, forgery, counterfeiting, passing bad**  
33 **checks, fraud, bribery, theft or misapplication of funds as described**  
34 **under chapter 570, RSMo, or a crime involving bribery, corruption,**  
35 **official misconduct, or misuse of official information as described**  
36 **under chapter 576, RSMo.**

104.490. 1. Should any error result in any member or beneficiary  
2 receiving more or less than he or she would have been entitled to receive had the  
3 error not occurred, the board shall correct such error, and, as far as practicable,  
4 make future payments in such a manner that the actuarial equivalent of the  
5 benefit to which such member or beneficiary was entitled shall be paid, and to  
6 this end may recover any overpayments. **In all cases in which an error has**  
7 **been made, no such error shall be corrected unless the system discovers**  
8 **or is notified of such error within ten years after the date benefits**  
9 **begin to be paid based on the error.**

10 2. A person who knowingly makes a false statement, or falsifies or permits  
11 to be falsified a record of the system, in an attempt to defraud the system is  
12 subject to fine or imprisonment pursuant to the Missouri revised statutes.

13 3. The board of trustees of the Missouri state employees' retirement  
14 system shall cease paying benefits to any survivor or beneficiary who is charged  
15 with the intentional killing of a member without legal excuse or justification. A  
16 survivor or beneficiary who is convicted of such charge shall no longer be entitled  
17 to receive benefits. If the survivor or beneficiary is not convicted of such charge,  
18 the board shall resume payment of benefits and shall pay the survivor or  
19 beneficiary any benefits that were suspended pending resolution of such charge.

104.601. 1. Any member retiring pursuant to the provisions of this  
2 chapter or any member retiring pursuant to provisions of chapter 169, RSMo, who  
3 is a member of the public school retirement system and who is employed by a

4 state agency other than an institution of higher learning, after working  
5 continuously until reaching retirement age, shall be credited with all his or her  
6 unused sick leave as reported through the financial and human resources system  
7 maintained by the office of administration, or if a state agency's employees are  
8 not paid salaries or wages through such system, as reported directly by the state  
9 agency. When calculating years of service, each member shall be entitled to one-  
10 twelfth of a year of creditable service for each one hundred sixty-eight hours of  
11 unused accumulated sick leave earned by the member. The employing agency  
12 shall not certify unused sick leave unless such unused sick leave could have been  
13 used by the member for sickness or injury. The rate of accrual of sick leave for  
14 purposes of computing years of service pursuant to this section shall be no  
15 greater than ten hours per month **regardless of whether or not the**  
16 **employee is employed in more than one position that qualifies the**  
17 **employee to receive retirement benefits under this chapter.** Nothing  
18 under this section shall allow a member to vest in the retirement system by using  
19 such credited sick leave to reach the time of vesting.

20 **2. Any system established pursuant to the provisions of this**  
21 **chapter shall not consider unused sick leave in determining the**  
22 **member's average compensation, eligibility for deferred, early, or**  
23 **normal retirement, including retirement benefits based on a higher**  
24 **formula, or any lump sum payment.**

**104.603. 1. For purposes of this section, the term "member" shall**  
2 **include any member under this chapter, an administrative law judge or**  
3 **legal advisor under chapter 287, RSMo, or a judge under chapter 476,**  
4 **RSMo, who is receiving a retirement annuity based on the member's**  
5 **creditable or credited service from either system; except that a member**  
6 **retired under sections 104.010 to 104.272 shall not be considered a**  
7 **member under this section.**

8 **2. Notwithstanding the provisions of sections 104.380 and**  
9 **104.1039 or any other law, any member who is employed, elected, or**  
10 **appointed and begins serving on or after September 1, 2006, as an**  
11 **employee by a department, an administrative law judge or legal**  
12 **advisor, or a judge, shall not receive a retirement annuity based on the**  
13 **member's creditable or credited service under this chapter, chapter**  
14 **287, RSMo, or chapter 476, RSMo, during any month or part of a month**  
15 **while such member is so employed.**

16           3. A member described in subsection 2 of this section who retired  
17 under the closed plan as defined under subsection 7 of section 104.1003  
18 and who is employed, elected, or appointed as an employee by a  
19 department shall be considered to be an employee with no previous  
20 creditable service and will accrue creditable service under the closed  
21 plan while so employed after completing at least one year of  
22 service. Such member shall not be required to meet age and service  
23 requirements for retirement eligibility under the closed plan and upon  
24 termination of employment shall receive an additional monthly annuity  
25 calculated under the closed plan based on the type of service accrued.  
26 If the member's original annuity was based on an early retirement  
27 reduction, the additional annuity shall be calculated using a reduction  
28 based on the member's age at the time the additional annuity is  
29 calculated and the amount of service since reemployment unless the  
30 member's age and total years of service under the original and  
31 additional annuity would make the member eligible for a normal  
32 annuity, in which case, the additional annuity shall be calculated as a  
33 normal retirement annuity based on the member's service since  
34 reemployment.

35           4. A member described in subsection 2 of this section who retired  
36 under the year 2000 plan under sections 104.1003 to 104.1093 and who  
37 is employed, elected, or appointed as an employee by a department  
38 shall be considered to be an employee with no previous credited service  
39 and will accrue credited service under the year 2000 plan while so  
40 employed after completing at least one year of service. Such member  
41 shall not be required to meet age and service requirements for  
42 retirement eligibility under the year 2000 plan and upon termination  
43 of employment shall receive an additional monthly annuity calculated  
44 under the year 2000 plan based on the type of service accrued. If the  
45 member's original annuity was based on an early retirement reduction,  
46 the additional annuity shall be calculated using a reduction based on  
47 the member's age at the time the additional annuity is calculated and  
48 the amount of service since reemployment unless the member's age and  
49 total years of service under the original and additional annuity would  
50 make the member eligible for a normal retirement annuity, in which  
51 case, the additional annuity shall be calculated as a normal retirement  
52 annuity based on the member's service since reemployment.

53           5. A member who was an administrative law judge, legal advisor,  
54 or judge described in subsection 2 of this section who has not retired  
55 under a retirement plan created under this chapter and who is  
56 employed, elected, or appointed as an employee by a department shall  
57 be considered to be a new employee with no previous credited service  
58 and will accrue credited service under the year 2000 plan under  
59 sections 104.1003 to 104.1093 while so employed after completing at  
60 least one year of service. Such member shall not be required to meet  
61 age and service requirements for retirement eligibility under the year  
62 2000 plan and upon termination of employment shall receive an  
63 additional monthly annuity calculated under the year 2000 plan based  
64 on the type of service accrued.

65           6. The original annuity or benefit, the additional annuity  
66 described in this section, or any annuity paid under section 104.420 or  
67 104.1030, shall be paid commencing with the end of the first month  
68 after the month during which the member terminates employment. The  
69 original annuity or benefit, the additional annuity, or any annuity paid  
70 under section 104.420 or 104.1030 shall be paid by the system that  
71 issued the original annuity or benefit; except that in the event a  
72 member dies prior to termination of employment, an annuity shall be  
73 paid under section 104.420 or 104.1030 in lieu of an additional annuity  
74 otherwise described in this section, and such member shall not be  
75 required to meet age and service requirements for retirement  
76 eligibility for an annuity paid under section 104.420 or 104.1030. A  
77 member, or the member's beneficiary in the event the member dies  
78 prior to termination of employment, shall transfer the member's  
79 creditable or credited service to the system that paid the original  
80 annuity if the member accrued such service in a different system. The  
81 system that paid the original annuity shall pay the additional annuity  
82 or the annuity under section 104.420 or 104.1030, based on the  
83 retirement formula that otherwise would apply based on the position  
84 in which the member was employed for the period of service applicable  
85 to the additional annuity or the annuity under section 104.420 or  
86 104.1030. The annuity option and plan election for the additional  
87 annuity shall be the same as the original annuity or benefit subject to  
88 any modifications that may have been made to the original annuity as  
89 provided by law; except that the annuity option for an annuity paid

90 under section 104.420 or 104.1030 shall be as provided in those  
91 sections. Cost-of-living adjustments shall be paid on both annuities  
92 based on the original cost-of-living payment date for the original  
93 annuity or benefit. In no event shall any cost-of-living adjustments be  
94 paid or accrued during the member's period of employment.

95 7. The provisions of this section shall not apply to any member  
96 who retires under the provisions of section 104.081.

104.606. Any member of either system who purchases creditable  
2 service or credited service under this chapter or chapter 105, RSMo,  
3 must apply and complete the purchase prior to applying to receive a  
4 retirement annuity in order to receive credit for such purchase.

104.607. 1. Either system may elect by a majority vote of its  
2 board of trustees to establish and administer an arrangement and fund  
3 to pay accrued benefits of its members to its member under this  
4 chapter to the extent that the accrued benefits paid out of the fund  
5 would not otherwise be payable under limitations in Section 415 of the  
6 Internal Revenue Code. An arrangement and fund established under  
7 this section shall be kept separate from the pension's fund assets.

8 2. If an arrangement and fund is established by a retirement  
9 system under subsection 1 of this section, the arrangement and fund  
10 shall be established and administered in accordance with Section  
11 415(m) of the Internal Revenue Code. The board may establish and  
12 adopt policies and procedures for the arrangement and fund.

13 3. If an arrangement and fund is established by a retirement  
14 system under subsection 1 of this section, the benefits paid from the  
15 fund shall be paid out of employer contributions or other eligible  
16 assets. The board shall determine the amount of the employer  
17 contribution that shall be allocated to the arrangement and  
18 fund. Employer contributions and other eligible assets that are  
19 contributed to the arrangement and fund shall be deposited in the  
20 arrangement and fund before deposits are made to the system.

21 4. Nothing in this section is intended to limit the amount of  
22 employer contributions that are contributed to a retirement fund for  
23 the accrued benefits that are allowed to be paid under Section 415 of  
24 the Internal Revenue Code.

104.620. 1. Any member who has not received a lump sum payment equal  
2 to the sum total of the contributions that the member paid into the retirement

3 system, plus interest credited to his or her account, shall be entitled to such a  
4 lump sum payment. Lump sum payments made pursuant to this section shall not  
5 be reduced by any retirement benefits which a member is entitled to receive, but  
6 shall be paid in full out of appropriate funds pursuant to appropriations for this  
7 purpose.

8         2. In the event any accumulated contributions standing to a member of  
9 the Missouri state employees' retirement system's credit remains unclaimed by  
10 such member for a period of four years or more, such accumulated contributions  
11 shall automatically revert to the credit of the fund for the Missouri state  
12 employees' retirement system. If an application is made, after such reversion, for  
13 such accumulated contributions, the board shall pay such contributions from the  
14 fund for the Missouri state employees' retirement system; except that, no interest  
15 shall be paid on such funds after the date of the reversion to the fund for the  
16 Missouri state employees' retirement system.

17         3. In the event any amount is due a deceased member, survivor, or  
18 beneficiary who dies after September 1, 2002, such amount shall be paid to the  
19 person or entity designated in writing as beneficiary to receive such amount by  
20 such member, survivor, or beneficiary. The member, survivor, or beneficiary may  
21 designate in writing a beneficiary to receive any final payment due after the  
22 death of a member, survivor, or beneficiary pursuant to this chapter. If no living  
23 person or entity so designated as beneficiary exists at the time of death, such  
24 amount shall be paid to the surviving spouse married to the deceased member,  
25 survivor, or beneficiary at the time of death. If no surviving spouse exists, such  
26 amount shall be paid to the surviving children or their descendants of such  
27 member, survivor, or beneficiary in equal parts. If no surviving children or any  
28 of their descendants exist, such amount shall be paid to the surviving parents of  
29 such member, survivor, or beneficiary in equal parts. If no surviving parents  
30 exist, such amount shall be paid to the surviving brothers, sisters, or their  
31 descendants of such member, survivor, or beneficiary in equal parts. If no  
32 surviving brothers, sisters, or their descendants exist, payment may be made as  
33 otherwise permitted by law. Notwithstanding this subsection, any amount due  
34 to a deceased member as payment of all or part of a lump sum pursuant to  
35 section 104.625 shall be paid to the member's surviving spouse married to the  
36 member at the time of death, and otherwise payment may be made as provided  
37 in this subsection. In the event any amount that is due to a member of either  
38 system remains unclaimed by such member for a period of four years or more,

39 such amount shall automatically revert to the credit of the fund of the member's  
40 system. If an application is made after such reversion for such amount, the board  
41 shall pay such amount from the board's fund to the member, except that no  
42 interest shall be paid on such funds after the date of the reversion to the fund.

43         4. The beneficiary of any member who purchased creditable service in the  
44 Missouri state employees' retirement system shall receive a refund upon the  
45 member's death equal to the amount of any purchase less any retirement benefits  
46 received by the member unless an annuity is payable to a survivor or beneficiary  
47 as a result of the member's death. In that event, the beneficiary of the survivor  
48 or beneficiary who received the annuity shall receive a refund upon the survivor's  
49 or beneficiary's death equal to the amount of the member's purchase of service  
50 less any annuity amounts received by the member and the survivor or beneficiary.

51         **5. The provisions of this section shall apply to any**  
52 **administrative law judge, legal advisor or beneficiary as defined under**  
53 **section 287.812, RSMo, or any judge or beneficiary as defined under**  
54 **section 476.515, RSMo, or any special commissioner under section**  
55 **476.450, RSMo.**

104.805. 1. Employees who are earning creditable service in the closed  
2 plan of the Missouri state employees' retirement system and who are, as a result  
3 of the provisions of this section and sections 226.008, 389.005, 389.610, and  
4 621.040, RSMo, transferred to the department of transportation will not become  
5 members of the closed plan of the [highways and transportation employees' and  
6 highway patrol] **Missouri department of transportation and highway**  
7 **patrol employees'** retirement system unless they elect to transfer membership  
8 and creditable service to the closed plan of the [highways and transportation  
9 employees' and highway patrol] **Missouri department of transportation and**  
10 **highway patrol employees'** retirement system. The election must be in  
11 writing and must be made within ninety days of [July 11, 2002] **the effective**  
12 **date of such transfer.** Any election to transfer membership and creditable  
13 service to the [highways and transportation employees' and highway  
14 patrol] **Missouri department of transportation and highway patrol**  
15 **employees'** retirement system shall result in the forfeiture of any rights or  
16 benefits in the Missouri state employees' retirement system. Any failure to elect  
17 to transfer membership and creditable service pursuant to this subsection will  
18 result in the employees remaining in the closed plan of the Missouri state  
19 employees' retirement system. If an election is made, the effective date for

20 commencement of membership and transfer of such creditable service shall be  
21 January 1, [2003] **2007**.

22         2. Employees who are earning credited service in the year 2000 plan of  
23 the Missouri state employees' retirement system and who are, as a result of the  
24 provisions of this section and sections 226.008, 389.005, 389.610, and 621.040,  
25 RSMo, transferred to the department of transportation will remain in the year  
26 2000 plan administered by the Missouri state employees' retirement system  
27 unless they elect to transfer membership and credited service to the year 2000  
28 plan administered by the [highways and transportation employees' and highway  
29 patrol] **Missouri department of transportation and highway patrol**  
30 **employees'** retirement system. The election must be in writing and must be  
31 made within ninety days of [July 11, 2002] **the effective date of such**  
32 **transfer**. Any election to transfer membership and credited service to the year  
33 2000 plan administered by the [highways and transportation employees' and  
34 highway patrol] **Missouri department of transportation and highway**  
35 **patrol employees'** retirement system shall result in the forfeiture of any rights  
36 or benefits in the Missouri state employees' retirement system. Any failure to  
37 elect to transfer membership and credited service pursuant to this subsection will  
38 result in the employees remaining in the year 2000 plan administered by the  
39 Missouri state employees' retirement system. If an election is made, the effective  
40 date for commencement of membership and transfer of such creditable service  
41 shall be January 1, [2003] **2007**.

42         3. For any employee who elects under subsection 1 or 2 of this section to  
43 transfer to the [highways and transportation employees' and highway patrol]  
44 **Missouri department of transportation and highway patrol employees'**  
45 retirement system, the Missouri state employees' retirement system shall pay to  
46 the [highways and transportation employees' and highway patrol] **Missouri**  
47 **department of transportation and highway patrol employees'** retirement  
48 system, by December 31, [2002] **2006**, an amount actuarially determined to equal  
49 the liability transferred from the Missouri state employees' retirement system.

50         4. In no event shall any employee receive service credit for the same  
51 period of service under more than one retirement system as a result of the  
52 provisions of this section.

53         5. For any transferred employee who elects under subsection 1 or 2 of this  
54 section to transfer to the [highways and transportation employee's and highway  
55 patrol] **Missouri department of transportation and highway patrol**

56 **employees'** retirement system, the only medical coverage available for the  
57 employee shall be the medical coverage provided in section 104.270. The effective  
58 date for commencement of medical coverage shall be January 1, [2003]  
59 **2007**. However, this does not preclude medical coverage for the transferred  
60 employee as a dependent under any other health care plan.

104.1003. Unless a different meaning is plainly required by the context,  
2 the following words and phrases as used in sections 104.1003 to 104.1093 shall  
3 mean:

4 (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

5 (2) "Actuary", an actuary who is experienced in retirement plan financing  
6 and who is either a member of the American Academy of Actuaries or an enrolled  
7 actuary under the Employee Retirement Income Security Act of 1974;

8 (3) "Annuity", annual benefit amounts, paid in equal monthly  
9 installments, from funds provided for in, or authorized by, sections 104.1003 to  
10 104.1093;

11 (4) "Annuity starting date" means the first day of the first month with  
12 respect to which an amount is paid as an annuity pursuant to sections 104.1003  
13 to 104.1093;

14 (5) "Beneficiary", any person or entity entitled to receive an annuity or  
15 other benefit pursuant to sections 104.1003 to 104.1093 based upon the  
16 employment record of another person;

17 (6) "Board of trustees", "board", or "trustees", a governing body or bodies  
18 established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

19 (7) "Closed plan", a benefit plan created pursuant to this chapter and  
20 administered by a system prior to July 1, 2000. No person first employed on or  
21 after July 1, 2000, shall become a member of the closed plan, but the closed plan  
22 shall continue to function for the benefit of persons covered by and remaining in  
23 the closed plan and their beneficiaries;

24 (8) "Consumer price index", the Consumer Price Index for All Urban  
25 Consumers for the United States, or its successor index, as approved by the  
26 board, as such index is defined and officially reported by the United States  
27 Department of Labor, or its successor agency;

28 (9) "Credited service", the total credited service to a member's credit as  
29 provided in sections 104.1003 to 104.1093; **except that in no case shall more**  
30 **than one day of credited service be credited any member or vested**  
31 **former member for any one calendar day of eligible service credit as**

32 **provided by law;**

33 (10) "Department", any department or agency of the executive, legislative,  
34 or judicial branch of the state of Missouri receiving state appropriations,  
35 including allocated funds from the federal government but not including any body  
36 corporate or politic unless its employees are eligible for retirement coverage from  
37 a system pursuant to this chapter as otherwise provided by law;

38 (11) "Early retirement eligibility", a member's attainment of fifty-seven  
39 years of age and the completion of at least five years of credited service;

40 (12) "Effective date", July 1, 2000;

41 (13) "Employee" shall be any person who is employed by a department and  
42 is paid a salary or wage by a department in a position normally requiring the  
43 performance of duties of not less than one thousand **forty** hours per year,  
44 provided:

45 (a) The term "employee" shall not include any patient or inmate of any  
46 state, charitable, penal or correctional institution, or any person who is employed  
47 by a department in a position that is covered by a state-sponsored defined benefit  
48 retirement plan not created by this chapter;

49 (b) The term "employee" shall be modified as provided by other provisions  
50 of sections 104.1003 to 104.1093;

51 (c) The system shall consider a person who is employed in multiple  
52 positions simultaneously within a single agency to be working in a single position  
53 for purposes of determining whether the person is an employee as defined in this  
54 subdivision;

55 (d) Beginning September 1, 2001, the term "year" as used in this  
56 subdivision shall mean the twelve-month period beginning on the first day of  
57 employment;

58 **(e) The term "employee" shall include any person as defined**  
59 **under paragraph (b) of subdivision (20) of subsection 1 of section**  
60 **104.010 who is first employed on or after July 1, 2000, but prior to**  
61 **August 28, 2006;**

62 (14) "Employer", a department;

63 (15) "Executive director", the executive director employed by a board  
64 established pursuant to the provisions of sections 104.1003 to 104.1093;

65 (16) "Final average pay", the average pay of a member for the thirty-six  
66 full consecutive months of service before termination of employment when the  
67 member's pay was greatest; or if the member was on workers' compensation leave

68 of absence or a medical leave of absence due to an employee illness, the amount  
69 of pay the member would have received but for such leave of absence as reported  
70 and verified by the employing department; or if the member was employed for  
71 less than thirty-six months, the average monthly pay of a member during the  
72 period for which the member was employed. **The board of each system may**  
73 **promulgate rules for purposes of calculating final average pay and**  
74 **other retirement provisions to accommodate for any state payroll**  
75 **system in which pay is received on a monthly, semimonthly, biweekly,**  
76 **or other basis;**

77 (17) "Fund", a fund of the year 2000 plan established pursuant to sections  
78 104.1003 to 104.1093;

79 (18) "Investment return", or "interest", rates as shall be determined and  
80 prescribed from time to time by a board;

81 (19) "Member", a person who is included in the membership of the system,  
82 as set forth in section 104.1009;

83 (20) "Normal retirement eligibility", a member's attainment of at least  
84 sixty-two years of age and the completion of at least five or more years of credited  
85 service or, the attainment of at least forty-eight years of age with a total of years  
86 of age and years of credited service which is at least eighty or, in the case of a  
87 member of the highway patrol who shall be subject to the mandatory retirement  
88 provisions of section 104.080, the mandatory retirement age and completion of  
89 five years of credited service or, the attainment of at least forty-eight years of age  
90 with a total of years of age and years of credited service which is at least eighty;

91 (21) "Pay" shall include:

92 (a) All salary and wages payable to an employee for personal services  
93 performed for a department; but excluding:

94 a. Any amounts paid after an employee's employment is terminated,  
95 unless the payment is made as a final installment of salary or wages at the same  
96 rate as in effect immediately prior to termination of employment in accordance  
97 with a state payroll system adopted on or after January 1, 2000;

98 b. Any amounts paid upon termination of employment for unused annual  
99 leave or unused sick leave;

100 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the  
101 Internal Revenue Code of 1986 as amended and other applicable federal laws or  
102 regulations; [and]

103 d. Any nonrecurring single sum payments; **and**

104           **e. Any amounts for which contributions have not been made in**  
105   **accordance with section 104.1066;**

106           (b) All salary and wages which would have been payable to an employee  
107 on workers' compensation leave of absence during the period the employee is  
108 receiving a weekly workers' compensation benefit, as reported and verified by the  
109 employing department;

110           (c) All salary and wages which would have been payable to an employee  
111 on a medical leave due to employee illness, as reported and verified by the  
112 employing department;

113           (d) For purposes of members of the general assembly, pay shall be the  
114 annual salary provided to each senator and representative pursuant to section  
115 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

116           (22) "Retiree", a person receiving an annuity from the year 2000 plan  
117 based upon the person's employment record;

118           (23) "State", the state of Missouri;

119           (24) "System" or "retirement system", the Missouri state employees'  
120 retirement system or the [transportation department and highway patrol  
121 retirement system] **Missouri department of transportation and highway**  
122 **patrol employees' retirement system**, as the case may be;

123           (25) "Vested former member", a person entitled to receive a deferred  
124 annuity pursuant to section 104.1036;

125           (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to  
126 104.1093.

104.1012. 1. Any new state employee who would have become a member  
2 of the closed plan administered by the transportation department and highway  
3 patrol retirement system except for the creation of the year 2000 plan and  
4 persons covered by the closed plan administered by the highway and  
5 transportation employees' and highway patrol retirement system who elect year  
6 2000 plan coverage as provided in section 104.1015 shall have their year 2000  
7 plan coverage managed by that board.

8           2. Any new state employee who would have become a member of the  
9 closed plan administered by the Missouri state employees' retirement system  
10 except for the creation of the year 2000 plan or persons covered by the closed plan  
11 administered by the Missouri state employees' retirement system who elect year  
12 2000 plan coverage as provided in section 104.1015 shall have their year 2000  
13 plan coverage managed by that board.

14           **3. In the event either board of trustees elects to provide**  
15 **employees, members, or vested former members under either the closed**  
16 **plan or the year 2000 plan with education or advice pertaining to any**  
17 **aspect of retirement planning, the board will not be liable for the**  
18 **retirement or investment decisions made or not made by employees,**  
19 **members, or vested former members so long as the board acts with the**  
20 **same care, skill, prudence, and diligence in the selection and**  
21 **monitoring of providers of education and advice, under the**  
22 **circumstances then prevailing that a prudent person acting in a similar**  
23 **capacity and familiar with those matters would use in the conduct of**  
24 **a similar enterprise with similar aims.**

104.1015. 1. Persons covered by a closed plan on July 1, 2000, shall elect  
2 whether or not to change to year 2000 plan coverage. Any such person who elects  
3 to be covered by the year 2000 plan shall forfeit all rights to receive benefits  
4 under this chapter except as provided under the year 2000 plan and all creditable  
5 service of such person under the closed plan shall be credited under the year 2000  
6 plan. Any such person who elects not to be covered by the year 2000 plan shall  
7 waive all rights to receive benefits under the year 2000 plan. In no event shall  
8 any retroactive annuity be paid to such persons pursuant to sections 104.1003 to  
9 104.1093 except as described in subsection 2 of this section.

10           2. Each retiree of the closed plan on July 1, 2000, shall be furnished by  
11 the appropriate system a written comparison of the retiree's closed plan coverage  
12 and the retiree's potential year 2000 plan coverage. A retiree shall elect whether  
13 or not to change to year 2000 plan coverage by making a written election, on a  
14 form furnished by the appropriate board, and providing that form to the system  
15 by no later than twelve months after July 1, 2000, and any retiree who fails to  
16 make such election within such time period shall be deemed to have elected to  
17 remain covered under the closed plan; provided the election must be after the  
18 retiree has received from the appropriate system such written comparison. The  
19 retirement option elected under the year 2000 plan shall be the same as the  
20 retirement option elected under the closed plan, except any retiree who is  
21 receiving one of the options providing for a continuing lifetime annuity to a  
22 surviving spouse under the closed plan may elect to receive an annuity under  
23 option 1 or 2 of section 104.1027, or a life annuity under subsection 2 of section  
24 104.1024, provided the person who was married to the member at the time of  
25 retirement, if any, consents in writing to such election made pursuant to section

26 104.1024, or to any election described in this section if the person was married  
27 to a member of the Missouri state employees' retirement system. The effective  
28 date of payment of an annuity under the year 2000 plan as provided in this  
29 subsection shall begin on July 1, 2000. No adjustment shall be made to  
30 retirement benefits paid to the retiree prior to July 1, 2000. In order to calculate  
31 a new monthly annuity for retirees electing coverage under the year 2000 plan  
32 pursuant to this subsection, the following calculations shall be made:

33 (1) Except as otherwise provided in this subsection, the retiree's gross  
34 monthly retirement annuity in effect immediately prior to July 1, 2000, shall be  
35 multiplied by the percentage increase in the life annuity formula between the  
36 closed plan and the year 2000 plan. This amount shall be added to the retiree's  
37 gross monthly retirement annuity in effect immediately prior to July 1, 2000, to  
38 arrive at the retiree's new monthly retirement annuity in the year 2000 plan on  
39 July 1, 2000. The age of eligibility and reduction factors applicable to the  
40 retiree's original annuity under the closed plan shall remain the same in the  
41 annuity payable under the year 2000 plan, except as provided in subdivision (2)  
42 of this subsection.

43 (2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree  
44 under the year 2000 plan, the new monthly retirement annuity calculated  
45 pursuant to subdivision (1) of this subsection shall be recalculated using the  
46 reduction factors for the option chosen pursuant to section 104.1027.

47 (3) If a temporary annuity is payable pursuant to subsection 4 of section  
48 104.1024 the additional temporary annuity shall be calculated by multiplying the  
49 retiree's credited service by the retiree's final average pay by eight-tenths of one  
50 percent.

51 (4) Cost-of-living adjustments paid pursuant to section 104.1045 will  
52 commence on the anniversary of the retiree's annuity starting date coincident  
53 with or next following July 1, 2000.

54 (5) Any retiree or other person described in this section who elects  
55 coverage under the year 2000 plan based on service rendered as a member of the  
56 general assembly or as a statewide elected official shall receive an annuity under  
57 the year 2000 plan calculated pursuant to the provisions of section 104.1084  
58 using the current monthly pay at the time of the election with future COLAs  
59 calculated pursuant to subsection 7 of section 104.1084.

60 3. Each person who is an employee and covered by the closed plan and not  
61 a retiree of the closed plan on July 1, 2000, shall elect whether or not to change

62 to year 2000 plan coverage prior to the last business day of the month before the  
63 person's annuity starting date, and if such election has not been made within  
64 such time, annuity payments due beginning on and after the month of the  
65 annuity starting date shall be made the month following the receipt by the  
66 appropriate system of such election and any other information required by the  
67 year 2000 plan created by sections 104.1003 to 104.1093; provided, such election  
68 must be after the person has received from the year 2000 plan a written  
69 comparison of the person's closed plan coverage and the person's potential year  
70 2000 plan coverage and the election must be made in writing on a form furnished  
71 by the appropriate board. If such person dies after the annuity starting date but  
72 before making such election and providing such other information, no benefits  
73 shall be paid except as required pursuant to section 104.420 or subsection 2 of  
74 section 104.372 for members of the general assembly.

75 4. Each person who is not an employee and not a retiree and is eligible  
76 for a deferred annuity from the closed plan on July 1, 2000, shall elect whether  
77 or not to change to the year 2000 plan coverage prior to the last business day of  
78 the month before the person's annuity starting date, and if such election has not  
79 been made within such time, annuity payments due beginning on and after the  
80 month of the annuity starting date shall be made the month following the receipt  
81 by the appropriate system of such election and any other information required by  
82 the year 2000 plan created by sections 104.1003 to 104.1093; provided, the  
83 election must be after the person has received from the year 2000 plan a written  
84 comparison of the person's closed plan coverage and the person's potential year  
85 2000 plan coverage and the election must be made in writing on a form furnished  
86 by the appropriate board. If such person dies after the annuity starting date but  
87 before making such election and providing such other information, no benefits  
88 shall be paid except as required pursuant to section 104.420 or subsection 2 of  
89 section 104.372 for members of the general assembly.

90 5. Each person who is not an employee and not a retiree and is eligible  
91 for a deferred annuity from the closed plan and returns to covered employment  
92 on or after July 1, 2000, shall be covered under the closed plan; provided, such  
93 person shall elect whether or not to change to the year 2000 plan coverage prior  
94 to the last business day of the month before the person's annuity starting date,  
95 and if such election has not been made within such time, annuity payments due  
96 beginning on and after the month of the annuity starting date shall be made the  
97 month following the receipt by the appropriate system of such election and any

98 other information required by the year 2000 plan created by sections 104.1003 to  
99 104.1093 and the election must be after the person has received from the year  
100 2000 plan a written comparison of the person's closed plan coverage and the  
101 person's potential year 2000 plan coverage and the election must be made in  
102 writing on a form furnished by the appropriate board. If such person dies after  
103 the annuity starting date but before making such election and providing such  
104 other information, no benefits shall be paid except as required under section  
105 104.420 or subsection 2 of section 104.372 for members of the general assembly.

106 6. Each person who is not an employee and not a retiree and not eligible  
107 for a deferred annuity from the closed plan but has forfeited creditable service  
108 with the closed plan and becomes an employee on or after August 28, 2002, shall  
109 be changed to year 2000 plan coverage and upon receiving credited service  
110 continuously for one year shall receive credited service for all such forfeited  
111 creditable service under the closed plan.

112 7. Each person who was employed as a member of the general assembly  
113 through December 31, 2000, covered under the closed plan, and has served at  
114 least two full biennial assemblies as defined in subdivision (24) of subsection 1  
115 of section 104.010 but who is not eligible for a deferred annuity under the closed  
116 plan shall be eligible to receive benefits under the new plan pursuant to  
117 subdivision (5) of subsection 2 of this section upon meeting the age requirements  
118 under the new plan.

119 8. The retirees and persons described in subsections 2 and 4 of this  
120 section shall be eligible for benefits under those subsections pursuant to  
121 subsection 8 of section 104.610.

122 **9. A member may change a member's plan election made under**  
123 **this section at any time prior to the system mailing or electronically**  
124 **transferring the first annuity payment to such member.**

104.1021. 1. The appropriate board shall determine how much credited  
2 service shall be given each member consistent with this section.

3 2. If a member terminates employment and is eligible to receive an  
4 annuity pursuant to the year 2000 plan, or becomes a vested former member at  
5 the time of termination, the member's or former member's unused sick leave as  
6 reported through the financial and human resources system maintained by the  
7 office of administration, or if a department's employees are not paid salaries or  
8 wages through such system, as reported directly by the department, for which the  
9 member has not been paid will be converted to credited service at the time of

10 application for retirement benefits. The member shall receive one-twelfth of a  
11 year of credited service for each one hundred and sixty-eight hours of such  
12 unused sick leave. The employing department shall not certify unused sick leave  
13 unless such unused sick leave could have been used by the member for sickness  
14 or injury. The rate of accrual of sick leave for purposes of computing years of  
15 service pursuant to this section shall be no greater than ten hours per month  
16 **regardless of whether or not the employee is employed in more than**  
17 **one position that qualifies the employee to receive retirement benefits**  
18 **under this chapter.** Such credited service shall not be used in determining the  
19 member's **final average pay**, eligibility for **deferred, early, or normal**  
20 **retirement, including retirement benefits based on a higher formula, or**  
21 **any lump sum payment.** Such credited service shall be added to the credited  
22 service in the last position of employment held as a member of the system.

23         3. If a member is employed in a covered position and simultaneously  
24 employed in one or more other covered or noncovered positions, credited service  
25 shall be determined as if all such employment were in one position, and covered  
26 pay shall be the total of pay for all such positions.

27         4. In calculating any annuity, "credited service" means a period expressed  
28 as whole years and any fraction of a year measured in twelfths that begins on the  
29 date an employee commences employment in a covered position and ends on the  
30 date such employee's membership terminates pursuant to section 104.1018 plus  
31 any additional period for which the employee is credited with service pursuant  
32 to this section.

33         5. A member shall be credited for all military service after membership  
34 commences as required by state and federal law.

35         6. Any member who had active military service in the United States  
36 Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard,  
37 or any reserve component thereof prior to last becoming a member, or who is  
38 otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of  
39 this section, and who became a member after the person's discharge from military  
40 service under honorable conditions may elect, prior to retirement, to purchase  
41 credited service for all such military service, but not to exceed four years,  
42 provided the person is not receiving and is not eligible to receive retirement  
43 credits or benefits from any other public or private retirement plan, other than  
44 a United States military service retirement system, for the military service to be  
45 purchased along with the submission of appropriate documentation verifying the

46 member's dates of active service. The purchase shall be effected by the member  
47 paying to the system an amount equal to the state's contributions that would  
48 have been made to the system on the member's behalf had the member been a  
49 member for the period for which the member is electing to purchase credit and  
50 had the member's pay during such period of membership been the same as the  
51 annual pay rate as of the date the member was initially employed as a member,  
52 with the calculations based on the contribution rate in effect on the date of such  
53 member's employment with simple interest calculated from the date of  
54 employment to the date of election pursuant to this subsection. The payment  
55 shall be made over a period of not longer than two years, measured from the date  
56 of election, and with simple interest on the unpaid balance. If a member who  
57 purchased credited service pursuant to this subsection dies prior to retirement,  
58 the surviving spouse may, upon written request, receive a refund of the amount  
59 contributed for such purchase of such credited service, provided the surviving  
60 spouse is not entitled to survivorship benefits payable pursuant to the provisions  
61 of section 104.1030.

62         7. Any member of the Missouri state employees' retirement system shall  
63 receive credited service for the creditable prior service that such employee would  
64 have been entitled to under the closed plan pursuant to section 104.339,  
65 subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342,  
66 section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372,  
67 section 178.640, RSMo, and section 211.393, RSMo, provided such service has not  
68 been credited under the closed plan.

69         8. Any member who has service in both systems and dies or terminates  
70 employment shall have the member's service in the other system transferred to  
71 the last system that covered such member and any annuity payable to such  
72 member shall be paid by that system. Any such member may elect to transfer  
73 service between systems prior to termination of employment, provided, any  
74 annuity payable to such member shall be paid by the last system that covered  
75 such member prior to the receipt of such annuity.

76         9. In no event shall any person or member receive credited service  
77 pursuant to the year 2000 plan if that same service is credited for retirement  
78 benefits under any defined benefit retirement system not created pursuant to this  
79 chapter.

80         10. Any additional credited service as described in subsections 5 to 7 of  
81 this section shall be added to the credited service in the first position of

82 employment held as a member of the system. Any additional creditable service  
83 received pursuant to section 105.691, RSMo, shall be added to the credited service  
84 in the position of employment held at the time the member completes the  
85 purchase or transfer pursuant to such section.

86 11. A member may not purchase any credited service described in this  
87 section unless the member has met the five-year minimum service requirement  
88 as provided in subdivisions (11) and (20) of section 104.1003, the [two] **three** full  
89 biennial assemblies minimum service requirement as provided in section  
90 104.1084, or the four-year minimum service requirement as provided in section  
91 104.1084.

92 12. Absences taken by an employee without compensation for sickness and  
93 injury of the employee of less than twelve months or for leave taken by such  
94 employee without compensation pursuant to the provisions of the Family and  
95 Medical Leave Act of 1993 shall be counted as years of credited service.

96 13. **Upon the death of a member who has not requested credited**  
97 **service under section 104.339, subsections 2, 6, 7, and 9 of section**  
98 **104.340, subsection 12 of section 104.342, subsection 4 of section 104.345,**  
99 **subsection 4 of section 104.372, section 178.639, RSMo, or section**  
100 **211.393, RSMo, the survivor of such member who is or would be eligible**  
101 **to receive benefits under section 104.1030 may elect to have the**  
102 **member receive such credited service or transfer such service. Upon**  
103 **making such election, all of the provisions of applicable sections of law**  
104 **as provided in this section shall apply. Any survivor benefits shall be**  
105 **calculated as if such credited service or transferred service had been**  
106 **received by such member on a date of the death of the member.**

104.1024. 1. Any member who terminates employment may retire on or  
2 after attaining normal retirement eligibility by making application in written  
3 form and manner approved by the appropriate board. The written application  
4 shall set forth the annuity starting date which shall not be earlier than the first  
5 day of the second month following the month of the execution and filing of the  
6 member's application for retirement nor later than the first day of the fourth  
7 month following the month of the execution and filing of the member's application  
8 for retirement. **The payment of the annuity shall be made by the last day**  
9 **of each month, providing all documentation required under section**  
10 **104.1027 for the calculation and payment of the benefits is received by**  
11 **the board.**

12           2. A member's annuity shall be paid in the form of a life annuity, except  
13 as provided in section 104.1027, and shall be an amount for life equal to one and  
14 seven-tenths percent of the final average pay of the member multiplied by the  
15 member's years of credited service.

16           3. The life annuity defined in subsection 2 of this section shall not be less  
17 than a monthly amount equal to fifteen dollars multiplied by the member's full  
18 years of credited service.

19           4. If as of the annuity starting date of a member who has attained normal  
20 retirement eligibility the sum of the member's years of age and years of credited  
21 service equals eighty or more years and if the member's age is at least forty-eight  
22 years but less than sixty-two years, or, in the case of a member of the highway  
23 patrol who shall be subject to the mandatory retirement provision of section  
24 104.080, the mandatory retirement age and completion of five years of credited  
25 service, then in addition to the life annuity described in subsection 2 of this  
26 section, the member shall receive a temporary annuity equal to eight-tenths of  
27 one percent of the member's final average pay multiplied by the member's years  
28 of credited service. The temporary annuity and any cost-of-living adjustments  
29 attributable to the temporary annuity pursuant to section 104.1045 shall  
30 terminate at the end of the calendar month in which the earlier of the following  
31 events occurs: the member's death or the member's attainment of the earliest age  
32 of eligibility for reduced Social Security retirement benefits, **but no later than**  
33 **age sixty-two.**

34           5. The annuity described in subsection 2 of this section for any person  
35 who has credited service not covered by the federal Social Security Act, as  
36 provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the  
37 life annuity shall be an amount equal to two and five-tenths percent of the final  
38 average pay of the member multiplied by the number of years of service not  
39 covered by the federal Social Security Act in addition to one and seven-tenths  
40 percent of the final average pay of the member multiplied by the member's years  
41 of credited service covered by the federal Social Security Act.

42           6. Effective July 1, 2002, any member, except an elected official or a  
43 member of the general assembly, who has not been paid retirement benefits and  
44 continues employment for at least two years beyond the date of normal retirement  
45 eligibility, may elect to receive an annuity and lump sum payment or payments,  
46 determined as follows:

47           (1) A retroactive starting date shall be established which shall be a date

48 selected by the member; provided, however, that the retroactive starting date  
49 selected by the member shall not be a date which is earlier than the date when  
50 a normal annuity would have first been payable. In addition, the retroactive  
51 starting date shall not be more than five years prior to the annuity starting  
52 date. The member's selection of a retroactive starting date shall be done in  
53 twelve-month increments, except this restriction shall not apply when the  
54 member selects the total available time between the retroactive starting date and  
55 the annuity starting date;

56 (2) The prospective annuity payable as of the annuity starting date shall  
57 be determined pursuant to the provisions of this section, with the exception that  
58 it shall be the amount which would have been payable at the annuity starting  
59 date had the member actually retired on the retroactive starting date under the  
60 retirement plan selected by the member. Other than for the lump sum payment  
61 or payments specified in subdivision (3) of this subsection, no other amount shall  
62 be due for the period between the retroactive starting date and the annuity  
63 starting date;

64 (3) The lump sum payable shall be ninety percent of the annuity amounts  
65 which would have been paid to the member from the retroactive starting date to  
66 the annuity starting date had the member actually retired on the retroactive  
67 starting date and received a life annuity. The member shall elect to receive the  
68 lump sum amount either in its entirety at the same time as the initial annuity  
69 payment is made or in three equal annual installments with the first payment  
70 made at the same time as the initial annuity payment;

71 (4) Any annuity payable pursuant to this section that is subject to a  
72 division of benefit order pursuant to section 104.1051 shall be calculated as  
73 follows:

74 (a) Any service of a member between the retroactive starting date and the  
75 annuity starting date shall not be considered credited service except for purposes  
76 of calculating the division of benefit; and

77 (b) The lump sum payment described in subdivision (3) of this section  
78 shall not be subject to any division of benefit order; and

79 (5) For purposes of determining annual benefit increases payable as part  
80 of the lump sum and annuity provided pursuant to this section, the retroactive  
81 starting date shall be considered the member's date of retirement.

104.1027. 1. Prior to the last business day of the month before the  
2 annuity starting date, a member or a vested former member shall elect whether

3 or not to have such member's or such vested former member's life annuity  
4 reduced, but not any temporary annuity which may be payable, and designate a  
5 beneficiary, as provided by the options set forth in this section; provided that if  
6 such election has not been made within such time, annuity payments due  
7 beginning on and after the month of the annuity starting date shall be made the  
8 month following the receipt by the appropriate system of such election and any  
9 other information required by the year 2000 plan created by sections 104.1003 to  
10 104.1093, and further provided, that if such person dies after the annuity starting  
11 date but before making such election and providing such other information, no  
12 benefits shall be paid except as required pursuant to section 104.1030:

13       Option 1. A retiree's life annuity shall be reduced to a certain percent of  
14 the annuity otherwise payable. Such percent shall be ninety percent adjusted as  
15 follows: if the retiree's age on the annuity starting date is younger than sixty-two  
16 years, an increase of three-tenths of one percent for each year the retiree's age is  
17 younger than age sixty-two years, to a maximum increase of three and six-tenths  
18 percent; and if the beneficiary's age is younger than the retiree's age on the  
19 annuity starting date, a decrease of three-tenths of one percent for each year of  
20 age difference; and if the retiree's age is younger than the beneficiary's age on the  
21 annuity starting date, an increase of three-tenths of one percent for each year of  
22 age difference; provided, after all adjustments the option 1 percent cannot exceed  
23 ninety-five percent. Upon the retiree's death, fifty percent of the retiree's reduced  
24 annuity shall be paid to such beneficiary who was the retiree's spouse on the  
25 annuity starting date or as otherwise provided by subsection 5 of this section.

26       Option 2. A retiree's life annuity shall be reduced to a certain percent of  
27 the annuity otherwise payable. Such percent shall be eighty-three percent  
28 adjusted as follows: if the retiree's age on the annuity starting date is younger  
29 than sixty-two years, an increase of four-tenths of one percent for each year the  
30 retiree's age is younger than sixty-two years, to a maximum increase of four and  
31 eight-tenths percent; and if the beneficiary's age is younger than the retiree's age  
32 on the annuity starting date, a decrease of five-tenths of one percent for each year  
33 of age difference; and if the retiree's age is younger than the beneficiary's age on  
34 the annuity starting date, an increase of five-tenths of one percent for each year  
35 of age difference; provided, after all adjustments the option 2 percent cannot  
36 exceed ninety percent. Upon the retiree's death one hundred percent of the  
37 retiree's reduced annuity shall be paid to such beneficiary who was the retiree's  
38 spouse on the annuity starting date or as otherwise provided by subsection 5 of

39 this section.

40           Option 3. A retiree's life annuity shall be reduced to ninety-five percent  
41 of the annuity otherwise payable. If the retiree dies before having received one  
42 hundred twenty monthly payments, the reduced annuity shall be continued for  
43 the remainder of the one hundred twenty-month period to the retiree's designated  
44 beneficiary provided that if there is no beneficiary surviving the retiree, the  
45 present value of the remaining annuity payments shall be paid [to the retiree's  
46 estate] **as provided under subsection 4 of section 104.1054.** If the  
47 beneficiary survives the retiree but dies before receiving the remainder of such  
48 one hundred twenty monthly payments, the present value of the remaining  
49 annuity payments shall be paid [to the beneficiary's estate] **as provided under**  
50 **subsection 4 of section 104.1054.**

51           Option 4. A retiree's life annuity shall be reduced to ninety percent of the  
52 annuity otherwise payable. If the retiree dies before having received one hundred  
53 eighty monthly payments, the reduced annuity shall be continued for the  
54 remainder of the one hundred eighty-month period to the retiree's designated  
55 beneficiary provided that if there is no beneficiary surviving the retiree, the  
56 present value of the remaining annuity payments shall be paid [to the retiree's  
57 estate] **as provided under subsection 4 of section 104.1054.** If the  
58 beneficiary survives the retiree but dies before receiving the remainder of such  
59 one hundred eighty monthly payments, the present value of the remaining  
60 annuity payments shall be paid [to the beneficiary's estate] **as provided under**  
61 **subsection 4 of section 104.1054.**

62           2. If a member is married as of the annuity starting date, the member's  
63 annuity shall be paid under the provisions of either option 1 or option 2 as set  
64 forth in subsection 1 of this section, at the member's choice, with the spouse as  
65 the member's designated beneficiary unless the spouse consents in writing to the  
66 member electing another available form of payment.

67           3. If a member has elected at the annuity starting date option 1 or 2  
68 pursuant to this section and if the member's spouse or eligible former spouse dies  
69 after the annuity starting date but before the member dies, then the member may  
70 cancel the member's election and return to the life annuity form of payment and  
71 annuity amount, effective the first of the month following the date of such  
72 spouse's or eligible former spouse's death.

73           4. If a member designates a spouse as a beneficiary pursuant to this  
74 section and subsequently that marriage ends as a result of a dissolution of

75 marriage, such dissolution shall not affect the option election pursuant to this  
76 section and the former spouse shall continue to be eligible to receive survivor  
77 benefits upon the death of the member.

78         5. Effective July 1, 2000, a member may make an election under option  
79 1 or 2 after the annuity starting date as described in this section if the member  
80 makes such election within one year from the date of marriage or July 1, 2000,  
81 whichever is later, pursuant to any of the following circumstances:

82         (1) The member elected to receive a life annuity and was not eligible to  
83 elect option 1 or 2 on the annuity starting date; or

84         (2) The member's annuity reverted to a normal or early retirement  
85 annuity pursuant to subsection 3 of this section, and the member remarried.

86         6. Effective September 1, 2001, the retirement application of any member  
87 who fails to make an election pursuant to subsection 1 of this section within  
88 ninety days of the annuity starting date contained in such retirement application  
89 shall be nullified. Any member whose retirement application is nullified shall not  
90 receive retirement benefits until the member files a new application for  
91 retirement pursuant to section 104.1024 and makes the election pursuant to  
92 subsection 1 of this section. In no event shall any retroactive retirement benefits  
93 be paid.

94         **7. A member may change a member's election made under this**  
95 **section at any time prior to the system mailing or electronically**  
96 **transferring the first annuity payment to such member.**

104.1030. 1. If a member with five or more years of credited service or a  
2 vested former member dies before such member's or such vested former member's  
3 annuity starting date, the applicable annuity provided in this section shall be  
4 paid.

5         2. The member's surviving spouse who was married to the member at the  
6 date of death shall receive an annuity computed as if such member had:

7         (1) Retired on the date of death with a normal retirement annuity based  
8 upon credited service and final average pay to the date of death, and without  
9 reduction if the member's age was younger than normal retirement eligibility;

10         (2) Elected option 2 provided for in section 104.1027; and

11         (3) Designated such spouse as beneficiary under such option.

12         3. If a spouse annuity is not payable pursuant to the provisions of  
13 subsection 2 of this section, or when a spouse annuity has ceased to be payable,  
14 eighty percent of an annuity computed in the same manner as if the member had

15 retired on the date of death with a normal retirement annuity based upon  
16 credited service and final average pay to the date of death and without reduction  
17 if the member's age at death was younger than normal retirement eligibility shall  
18 be divided equally among the dependent children of the deceased member. A  
19 child shall be a dependent child until death or attainment of age twenty-one,  
20 whichever occurs first; provided the age twenty-one maximum shall be extended  
21 for any child who has been found totally incapacitated by a court of competent  
22 jurisdiction. Upon a child ceasing to be a dependent child, that child's portion of  
23 the dependent annuity shall cease to be paid, and the amounts payable to any  
24 remaining dependent children shall be proportionately increased. **Benefits**  
25 **otherwise payable to a child under eighteen years of age under this**  
26 **section, to a beneficiary under eighteen years of age under the**  
27 **administrative law judges and legal advisors retirement plan under**  
28 **chapter 287, RSMo, or to a beneficiary under eighteen years of age**  
29 **under the judicial retirement plan under chapter 476, RSMo, shall be**  
30 **payable to the surviving parent as natural guardian of such child if**  
31 **such parent has custody or assumes custody of such minor child, or to**  
32 **the legal guardian of such child, until such child attains age eighteen;**  
33 **thereafter, the benefit may be paid to the child.**

34 4. For the purpose of computing the amount of an annuity payable  
35 pursuant to this section, if the board finds that the death was the natural and  
36 proximate result of a personal injury or disease arising out of and in the course  
37 of his or her actual performance of duty as an employee, then the minimum  
38 annuity to such member's spouse or, if no spouse benefits are payable, the  
39 minimum annuity that shall be divided among and paid to such member's  
40 dependent children shall be fifty percent of final average pay. The credited  
41 service requirement of subsection 1 of this section shall not apply to any annuity  
42 payable pursuant to this subsection.

43 5. The provisions of this section shall apply to members of the general  
44 assembly and statewide elected officials except that the credited service and  
45 monthly pay requirements described in section 104.1084 shall apply  
46 notwithstanding any other language to the contrary contained in this section.

104.1042. 1. Any member [who is in the Missouri state employees'  
2 retirement system] pursuant to the year 2000 plan created by sections 104.1003  
3 to 104.1093 and who becomes disabled and qualifies for [long-term] disability  
4 benefits and retires after August 28, 1999, or who becomes disabled and qualifies

5 for [long-term] disability benefits under a program provided by the member's  
6 employing department and retires after August 28, 1999, shall continue to accrue  
7 credited service and such member's rate of pay for purposes of calculating an  
8 annuity pursuant to the year 2000 plan created by sections 104.1003 to 104.1093  
9 shall be the member's regular monthly pay received at the time of disablement,  
10 increased thereafter for any increases in the consumer price index. Such  
11 increases in the member's monthly pay shall be made annually beginning twelve  
12 months after disablement and shall be equal to eighty percent of the increase in  
13 the consumer price index during the calendar year prior to the adjustment, but  
14 not more than five percent of the member's monthly pay immediately before the  
15 increase. Such accruals shall continue until the earliest of receipt of an early  
16 retirement annuity, attainment of normal retirement eligibility, or termination  
17 of disability benefits. **For the purposes of life insurance coverage under**  
18 **section 104.1072, a person who is receiving disability benefits under**  
19 **this section shall be required to pay the cost of life insurance coverage**  
20 **provided under section 104.1072 in order to receive such coverage,**  
21 **unless such person is eligible to receive such insurance at no cost**  
22 **under any waiver of premium provision that may exist under the**  
23 **contract for life insurance. For purposes of eligibility to apply for**  
24 **retirement, persons receiving disability benefits under this section**  
25 **shall be treated as if they were active employees during their period of**  
26 **disability.**

27       2. A member described in subsection 1 of this section who continues to be  
28 disabled until normal retirement eligibility may elect an annuity starting date  
29 upon termination of disability payments and shall receive a normal retirement  
30 annuity provided for in section 104.1024.

31       3. If the member's disability terminates, disability accruals described in  
32 subsection 1 of this section shall terminate.

33       4. Upon termination of disability payments and not returning to a position  
34 in which the member is an employee, the member's rights to plan benefits shall  
35 be determined as if the member had terminated employment at time of  
36 termination of disability payments.

37       5. Any member who was disabled under the closed plan prior to July 1,  
38 2000, and who returns to a position in which the member is an employee after  
39 July 1, 2000, shall be covered under the closed plan and shall be eligible to elect  
40 coverage under the new plan as provided by subsection 5 of section 104.1015.

104.1060. 1. Should any error result in any person receiving more or less  
2 than he or she would have been entitled to receive had the error not occurred, the  
3 board shall correct such error, and, as far as practicable, make future payments  
4 in such a manner that the actuarial equivalent of the benefit to which such  
5 member or beneficiary was entitled shall be paid, and to this end may recover any  
6 overpayments. In all cases in which an error has been made, no such error shall  
7 be corrected unless the system discovers or is notified of such error within ten  
8 years after the date [of] **benefits begin to be paid based on the** error.

9 2. A person who knowingly makes a false statement, or falsifies or permits  
10 to be falsified a record of the system, in an attempt to defraud the system shall  
11 be subject to fine or imprisonment under the Missouri revised statutes.

12 3. A board shall not pay an annuity to any survivor or beneficiary who is  
13 charged with the intentional killing of a member, retiree or survivor without legal  
14 excuse or justification. A survivor or beneficiary who is convicted of such charge  
15 shall no longer be entitled to receive an annuity. If the survivor or beneficiary  
16 is not convicted of such charge, the board shall resume annuity payments and  
17 shall pay the survivor or beneficiary any annuity payments that were suspended  
18 pending resolution of such charge.

104.1072. 1. Each board shall provide or contract, or both, for life  
2 insurance benefits for employees covered pursuant to the year 2000 plan as  
3 follows:

4 (1) Employees shall be provided fifteen thousand dollars of life insurance  
5 until December 31, 2000. Effective January 1, 2001, the system shall provide or  
6 contract or both for basic life insurance for employees covered under any  
7 retirement plan administered by the system pursuant to this chapter, persons  
8 covered by sections 287.812 to 287.856, RSMo, for employees who are members  
9 of the judicial retirement system as provided in section 476.590, RSMo, and, at  
10 the election of the state highways and transportation commission, employees who  
11 are members of the highways and transportation employees' and highway patrol  
12 retirement system, in the amount equal to one times annual pay, subject to a  
13 minimum amount of fifteen thousand dollars. The board shall establish by rule  
14 or contract the method for determining the annual rate of pay and any other  
15 terms of such insurance as it deems necessary to implement the requirements  
16 pursuant to this section. Annual rate of pay shall not include overtime or any  
17 other irregular payments as determined by the board. Such life insurance shall  
18 provide for triple indemnity in the event the cause of death is a proximate result

19 of a personal injury or disease arising out of and in the course of actual  
20 performance of duty as an employee;

21 (2) Any member who terminates employment after reaching normal or  
22 early retirement eligibility and becomes a retiree within sixty days of such  
23 termination shall receive five thousand dollars of life insurance coverage.

24 2. (1) In addition to the life insurance authorized by the provisions of  
25 subsection 1 of this section, any person for whom life insurance is provided or  
26 contracted for pursuant to such subsection may purchase, at the person's own  
27 expense and only if monthly voluntary payroll deductions are authorized,  
28 additional life insurance at a cost to be stipulated in a contract with a private  
29 insurance company or as may be required by a system if the board of trustees  
30 determines that the system should provide such insurance itself. The maximum  
31 amount of additional life insurance which may be so purchased prior to January  
32 1, 2004, is that amount which equals six times the amount of the person's annual  
33 rate of pay, subject to any maximum established by a board, except that if such  
34 maximum amount is not evenly divisible by one thousand dollars, then the  
35 maximum amount of additional insurance which may be purchased is the next  
36 higher amount evenly divisible by one thousand dollars. The maximum amount  
37 of additional life insurance which may be so purchased on or after January 1,  
38 2004, is an amount to be stipulated in a contract with a private insurance  
39 company or as may be required by the system if the board of trustees determines  
40 that the system should provide the insurance itself.

41 (2) Any person defined in subdivision (1) of this subsection may retain an  
42 amount not to exceed sixty thousand dollars of life insurance following the date  
43 of his or her retirement if such person becomes a retiree the month following  
44 termination of employment and makes written application for such life insurance  
45 at the same time such person's application is made to the board for retirement  
46 benefits. Such life insurance shall only be provided if such person pays the entire  
47 cost of the insurance, as determined by the board, by allowing voluntary  
48 deductions from the member's annuity.

49 (3) In addition to the life insurance authorized in subdivision (1) of this  
50 subsection, any person for whom life insurance is provided or contracted for  
51 pursuant to this subsection may purchase, at the person's own expense and only  
52 if monthly voluntary payroll deductions are authorized, life insurance covering  
53 the person's children or the person's spouse or both at coverage amounts to be  
54 determined by the board at a cost to be stipulated in a contract with a private

55 insurer or as may be required by the system if the board of trustees determines  
56 that the system should provide such insurance itself.

57 (4) Effective July 1, 2000, any member who applies and is eligible to  
58 receive an annuity based on the attainment of at least forty-eight years of age  
59 with a total of years of age and years of credited service which is at least eighty  
60 shall be eligible to retain any optional life insurance described in subdivision (1)  
61 of this subsection. The amount of such retained insurance shall not be greater  
62 than the amount in effect during the month prior to termination of  
63 employment. Such insurance may be retained until the member's attainment of  
64 the earliest age for eligibility for reduced Social Security retirement benefits **but**  
65 **no later than age sixty-two**, at which time the amount of such insurance that  
66 may be retained shall be that amount permitted pursuant to subdivision (2) of  
67 this subsection.

68 3. The state highways and transportation commission may provide for  
69 insurance benefits to cover medical expenses for members of the highways and  
70 transportation employees' and highway patrol retirement system. The state  
71 highways and transportation commission may provide medical benefits for  
72 dependents of members and for retired members. Contributions by the state  
73 highways and transportation commission to provide the benefits shall be on the  
74 same basis as provided for other state employees pursuant to the provisions of  
75 section 104.515. Except as otherwise provided by law, the cost of benefits for  
76 dependents of members and for retirees and their dependents shall be paid by the  
77 members or retirees. The commission may contract with other persons or entities  
78 including but not limited to third-party administrators, health network providers  
79 and health maintenance organizations for all, or any part of, the benefits provided  
80 for in this section. The commission may require reimbursement of any medical  
81 claims paid by the commission's medical plan for which there was third-party  
82 liability.

83 4. The highways and transportation employees' and highway patrol  
84 retirement system may request the state highways and transportation  
85 commission to provide life insurance benefits as required in subsections 1 and 2  
86 of this section. If the state highways and transportation commission agrees to the  
87 request, the highways and transportation employees' and highway patrol  
88 retirement system shall reimburse the state highways and transportation  
89 commission for any and all costs for life insurance provided pursuant to  
90 subdivision (2) of subsection 1 of this section. The person who is covered

91 pursuant to subsection 2 of this section shall be solely responsible for the costs  
92 of any additional life insurance. In lieu of the life insurance benefit in  
93 subdivision (2) of subsection 1 of this section, the highways and transportation  
94 employees' and highway patrol retirement system is authorized in its sole  
95 discretion to provide a death benefit of five thousand dollars.

96 5. To the extent that the board enters or has entered into any contract  
97 with any insurer or service organization to provide life insurance provided for  
98 pursuant to this section:

99 (1) The obligation to provide such life insurance shall be primarily that  
100 of the insurer or service organization and secondarily that of the board;

101 (2) Any member who has been denied life insurance benefits by the  
102 insurer or service organization and has exhausted all appeal procedures provided  
103 by the insurer or service organization may appeal such decision by filing a  
104 petition against the insurer or service organization in a court of law in the  
105 member's county of residence; and

106 (3) The board and the system shall not be liable for life insurance benefits  
107 provided by an insurer or service organization pursuant to this section and shall  
108 not be subject to any cause of action with regard to life insurance benefits or the  
109 denial of life insurance benefits by the insurer or service organization unless the  
110 member has obtained judgment against the insurer or service organization for life  
111 insurance benefits and the insurer or service organization is unable to satisfy  
112 that judgment.

104.1090. 1. Any member who as described in subdivision (1) of  
2 subsection 1 of section 104.1009 has been employed in a position covered by the  
3 system for at least ten or more years and has received credited service for such  
4 employment in the year 2000 plan shall receive additional credited service for  
5 previous public employment within the state covered by another retirement plan  
6 as defined in section 105.691, RSMo, if all of the following conditions are met:

7 (1) Such member has a vested right to receive a retirement benefit from  
8 the other retirement plan at the time of application pursuant to this section;

9 (2) The other retirement plan transfers to the system an amount equal to  
10 the employee's account balance under a defined contribution plan or the amount  
11 equal to the employee's pension benefit obligation under a defined benefit plan  
12 at the time of transfer to the extent that obligation is funded as of the plan's most  
13 recent actuarial valuation, not to exceed one hundred percent, as determined by  
14 the other retirement plan's actuary using the same assumption used in

15 performing the last regular actuarial valuation of the transferring plan, except  
16 that in no event shall the transferred amount be less than the employee's  
17 accumulated contributions on deposit with the transferring plan;

18 (3) No such credited service remains credited in such other retirement  
19 plan; and

20 (4) The member applies for the additional credited service prior to the  
21 member's annuity starting date in manner and form established by the  
22 appropriate board. Such additional credited service shall be added to the credited  
23 service in the first position of employment held as a member of the system.

24 2. Any member described in subsection 3 of section 104.1015 who elects  
25 to be covered by the year 2000 plan shall be eligible to receive service under the  
26 terms and conditions of subsection 1 of this section. **Any service that is**  
27 **transferred under this subsection shall be combined with the**  
28 **member's creditable service in the closed plan to determine whether or**  
29 **not the member has met the credited service requirement contained in**  
30 **subdivisions (11) and (20) of section 104.1003.**

104.1200. As used in sections 104.1200 to 104.1215, the following terms  
2 mean:

3 (1) "Education employee", any person described in the following  
4 classifications who is employed by one of the institutions, otherwise would meet  
5 the definition of "employee" pursuant to section 104.010 or 104.1003, and is not  
6 employed at a technical or vocational school or college: teaching personnel,  
7 instructors, assistant professors, associate professors, professors and academic  
8 administrators holding faculty rank;

9 (2) "Institutions", Truman State University, Northwest Missouri State  
10 University, Southeast Missouri State University, [Southwest] Missouri State  
11 University, Central Missouri State University, Harris-Stowe State [College]  
12 **University**, Lincoln University, Missouri Western State [College] **University**  
13 and Missouri Southern State [College] **University**;

14 (3) "Outside employee", any other provisions of sections 104.010 to  
15 104.1093 to the contrary notwithstanding, an education employee first so  
16 employed on or after July 1, 2002, who has not been previously employed in a  
17 position covered by the Missouri state employee's retirement system. An outside  
18 employee shall not be covered by the other benefit provisions of this chapter, but  
19 rather shall be covered by the benefit provisions provided for pursuant to sections  
20 104.1200 to 104.1215.

104.1205. 1. The board of trustees of the Missouri state employees' retirement system shall:

(1) Establish a defined contribution plan for outside employees which, among other things, provides for immediate vesting;

(2) Select a third-party administrator to provide such services as the board determines to be necessary for the proper administration of the defined contribution plan;

(3) Select the investment products which shall be made available to the participants in the defined contribution plan;

(4) Annually establish the contribution rate used for purposes of subsection 3 of section 104.1066 for employees of institutions who are other than outside employees, which shall be done by considering all such employees to be part of the general employee population within the Missouri state employees' retirement system;

(5) Establish the contribution rate for outside employees which shall be equal to one percent [of payroll] less than the normal cost contribution rate established pursuant to subdivision (4) of this section; and

(6) Establish such rules and regulations as may be necessary to carry out the purposes of this section.

**2. In the event the board of trustees elects to provide outside employees with investment education, investment advice, or a default investment option in a fund designed to provide a diversified investment based on the outside employee's age, the board will not be liable for the investment decisions made or not made by outside employees so long as the board acts with the same care, skill, prudence, and diligence in the selection and monitoring of providers of education and advice and such default investment option, under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.**

104.1215. Any outside employee who has participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215 **and who received contributions** for at least six years may elect to become a member of the Missouri state employees' retirement system. Such employee shall:

(1) Make such election while actively employed in a position that would otherwise be eligible for membership in the Missouri state employees' retirement

- 7 system except for the provisions of sections 104.1200 to 104.1215;
- 8 (2) Participate in the year 2000 plan;
- 9 (3) Be considered to have met the service requirements contained in  
10 section 104.1018;
- 11 (4) Not receive any credited service for service rendered while a  
12 participant in such defined contribution plan;
- 13 (5) Forfeit any right to future participation in the defined contribution  
14 plan after such election; and
- 15 (6) Not be eligible to receive credited service pursuant to section 104.1090  
16 based on service rendered while a participant in such defined contribution plan.

476.682. 1. Any person assigned as a senior judge or senior commissioner  
2 pursuant to section 26 of article V of the Missouri Constitution and who has  
3 served in this state an aggregate of at least two years, continuously or otherwise,  
4 as a judge or commissioner, shall receive for each day of service an amount equal  
5 to fifty percent of the current annual salary of the office from which the judge or  
6 senior commissioner retired attributable to one day of service. Notwithstanding  
7 the foregoing, any judge or commissioner who has retired prior to August 28,  
8 1999, who serves subsequent to said date as a senior judge or commissioner may  
9 receive compensation pursuant to this section regardless of their length of service;  
10 and no senior judge or senior commissioner shall receive less daily compensation  
11 than an amount, that when added to the daily amount of annual compensation  
12 payable pursuant to sections 476.450 to 476.595, is less than one hundred percent  
13 of the current annual salary of the office from which the judge or commissioner  
14 retired attributable to one day of service. For purposes of this subsection, one  
15 year shall equal two hundred thirty-five days. No senior judge or senior  
16 commissioner shall receive compensation pursuant to this subsection in a total  
17 amount that when such compensation is added to the annual compensation,  
18 salary or retirement compensation payable pursuant to sections 476.450 to  
19 476.595, the sum is greater than the current annual salary of the office from  
20 which the judge or commissioner retired.

21 2. A senior judge or senior commissioner assigned pursuant to section 26  
22 of article V of the Missouri Constitution for service outside the county where he  
23 or she resides shall be reimbursed for his or her travel and other actual and  
24 necessary expenses incurred in the performance of his or her services.

25 3. On or before the tenth day of each month a senior judge or senior  
26 commissioner shall certify to the state courts administrator the period during the

27 previous month during which he or she was assigned services and, if such  
28 services were completed, the date thereof and at the same time shall certify his  
29 or her expenses incurred and allowable under this section. The state courts  
30 administrator shall then issue a warrant to the state treasurer for the payment  
31 of the salary and expenses to the extent and within limitations provided for in  
32 this section. The state treasurer upon receipt of such warrant shall pay the same  
33 out of any appropriations made for this purpose on the last day of the month  
34 during which the warrant was received by him or her.

35 4. On or before the twentieth day of each month the state courts  
36 administrator shall certify the period of service reported by each senior judge or  
37 senior commissioner pursuant to subsection 3 of this section to the Missouri state  
38 employees' retirement system. [Any senior judge or senior commissioner] **After**  
39 accumulating two hundred thirty-five days of such service, **such senior judge**  
40 **or senior commissioner** shall receive credit for one year of judicial service for  
41 purposes of sections 476.520 and 476.545, **and subsequently shall receive**  
42 **credit for one year of judicial service** for each **additional period of two**  
43 hundred thirty-five days of service certified by the state courts administrator to  
44 the Missouri state employees' retirement system, except, if a pro rata portion of  
45 two hundred thirty-five days would cause the senior judge's or senior  
46 commissioner's total judicial service to equal twelve years, the Missouri state  
47 employees' retirement system shall credit the service at the time the pro rata  
48 portion is certified. [Upon receipt of such certification,] The retirement benefit  
49 of the senior judge or senior commissioner shall be recalculated [to reflect the  
50 attainment of twelve years; the adjusted benefit will become effective the first of  
51 the month following certification] **and increased prospectively after**  
52 **receiving each additional year of service or pro rata portion of a year**  
53 **if such pro rata portion would cause such senior judge or**  
54 **commissioner's total service to equal twelve years. In no event shall**  
55 **such senior judge or commissioner receive service credit after such**  
56 **senior judge or commissioner's total judicial service equals twelve**  
57 **years.**

58 5. Notwithstanding the provisions of section 476.510 or 476.565, no person  
59 shall receive benefits pursuant to the provisions of this section if the person is  
60 engaged in the private practice of law or doing a law business.

61 6. The judicial conference of the state of Missouri shall annually report  
62 on the use of senior judges and senior commissioners pursuant to this

63 section. Such report shall include at least the number of senior judges and senior  
64 commissioners assigned, the number of cases assigned and disposed of by senior  
65 judges and senior commissioners, and the expenditures made for that purpose.

[104.621. All retirement systems created in this chapter  
2 shall develop an affirmative action plan for the utilization of  
3 minority and women money managers, brokers, and investment  
4 counselors. Such retirement systems shall report their progress  
5 annually to the joint committee on public employee retirement.]

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